

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10684 SENATE STATE AFFAIRS

529

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Senator Loren Leman

## **SJR 9 - National Missile Defense System**

### **“Relating to the development and deployment of the National Missile Defense (NMD) System”**

SJR 9 expresses the Legislature’s support for the deployment of a missile defense system that will protect all 50 states. Though the proliferation of ballistic missile technology by foreign nations and organizations is a growing threat to the U.S., there currently is not a system in place to successfully defend the nation from this danger.

While the United States has superiority of conventional military weapons, several foreign nations are turning to unconventional means to overcome this imbalance. Lt. General Norton Schwartz, Commander of the Alaskan Command, reported to the Legislature on January 30 that approximately 25 countries had developed or were in the process of developing nuclear, chemical, and biological weapons, and the means of delivering them to targets far away. This is a serious danger that demands an equally serious response.

Acting on this threat the Department of Defense has undertaken extensive planning efforts to develop a National Missile Defense System that will protect the United States from a ballistic missile attack. The resulting NMD system has been designed as a fixed, land-based, non-nuclear missile defense system. Alaska has been identified as the preferred location for locating the radar site and ground-based interceptors.

President Clinton had pursued development of an NMD system but put the deployment on hold. However in the first weeks of his Administration, President Bush has indicated he intends to go ahead with plans for building a nationwide missile defense.

SJR 9 calls upon President Bush to move forward with his intentions to make a National Missile Defense System a reality as soon as technologically possible.

**SENATE JOINT RESOLUTION NO. 9**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

**BY SENATOR LEMAN**

**Introduced: 1/29/01  
Referred: State Affairs**

**A RESOLUTION**

1 **Relating to the development and deployment of the National Missile Defense System.**

2 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 **WHEREAS** the proliferation by foreign nations and organizations of weapons of  
4 mass destruction and of the technology for long-range missiles is a growing danger to all 50  
5 states; and

6 **WHEREAS** this threat was demonstrated on August 31, 1998, when North Korea  
7 flight-tested a long-range missile over Japan, and the missile splashed down in the Pacific  
8 Ocean, clearly showing the danger ballistic missiles pose to Alaska and other states on the  
9 west coast of the United States; and

10 **WHEREAS**, in response to this growing threat, the United States has initiated the  
11 National Missile Defense Program to protect all 50 states from foreign ballistic missile attack;  
12 and

13 **WHEREAS** Alaska is strategically located because of its close proximity to east Asia  
14 and Europe, and is the only state from which the entire United States can be defended; and

15 **WHEREAS** the developers of the National Missile Defense System have identified  
16 several sites in Alaska as preferred alternatives for the location of major components of the

1 system, including the radar site and intercept vehicles; and

2 **WHEREAS** construction contracts for the National Missile Defense System were not  
3 approved by President Clinton in 2000, delaying the construction schedule; and

4 **WHEREAS** barges carrying material to begin construction on a Shemya Island radar  
5 site could still embark this year; and

6 **WHEREAS** President George W. Bush and members of his cabinet have indicated  
7 their strong support for the development of a National Missile Defense System;

8 **BE IT RESOLVED** that the Alaska State Legislature calls upon the President of the  
9 United States to direct the United States Department of Defense to develop and deploy the  
10 National Missile Defense System as soon as technologically possible.

11 **COPIES** of this resolution shall be sent to the Honorable George W. Bush, President  
12 of the United States; the Honorable Donald Rumsfeld, United States Secretary of Defense; the  
13 Honorable John Warner, Chair, U.S. Senate Armed Services Committee; the Honorable Bob  
14 Stump, Chair, U.S. House Armed Services Committee; and to the Honorable Ted Stevens and  
15 the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S.  
16 Representative, members of the Alaska delegation in Congress.

**SJR**

**10**



# SENATOR ALAN AUSTERMAN

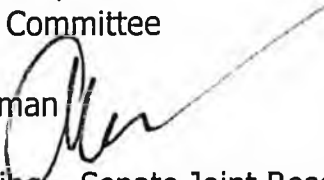
Alaska State Legislature

*Interim:* 112 Mill Bay Road, Kodiak, Alaska 99615 (907) 486-8872 • *Session:* State Capitol, Juneau, Alaska 99801 (907) 465-2487  
senator\_alan\_austerman@legis.state.ak.us

## MEMORANDUM

**DATE:** February 6, 2001

**TO:** Senator Gene Therriault, Chair  
Senate State Affairs Committee

**FROM:** Senator Alan Austerman 

**SUBJ:** Request for Scheduling – Senate Joint Resolution 10

I respectfully request the Senate State Affairs Committee schedule a hearing for Senate Joint Resolution 10 at your earliest convenience.

This resolution urges the United States Congress to fully fund the operational readiness and recapitalization requirements of the United States Coast Guard.

The bill and sponsor statement are attached.

Please contact Cliff Stone of my staff at 2696 as required.

Thank you for your consideration.



## SENATOR ALAN AUSTERMAN

Alaska State Legislature

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### **SPONSOR STATEMENT – SJR 10**

The United States Coast Guard is this nation's oldest and its premier maritime agency. The history of the Service is very complicated because it is the amalgamation of five Federal agencies. These agencies; the Revenue Cutter Service, the Lighthouse Service, the Steamboat Inspection Service, the Bureau of Navigation, and the Lifesaving Service, were originally independent, but had overlapping authorities and were shuffled around the government under a variety of names until they were all finally united under the umbrella of the Coast Guard. The multiple missions and responsibilities of the modern Service are directly tied to this diverse heritage and the magnificent achievements of all of these agencies.

The Coast Guard, through its forefathers, is the oldest continuous seagoing service and has fought in almost every war since the Constitution became the law of the land in 1789. The Coast Guard has traditionally performed two roles in wartime. The first has been to augment the Navy with personnel and cutters. The second has been to undertake special missions, for which peacetime experiences have prepared the Service with unique skills.

High-seas search and rescue has long presented the Coast Guard with one of its greatest challenges. When disaster occurs, hundreds of lives may be at stake. In October 1980, while almost 200 miles off Sitka, the Dutch cruise ship Prinsendam was jarred by explosions and stopped dead in the water after a fire started in the engine room. In spite of rough seas and strong winds, four Coast Guard, one Air Force and two Canadian helicopters plucked more than 500 shipwreck survivors from crowded lifeboats. Many of the survivors, mostly senior citizens, were lifted in rescue baskets to the awaiting Coast Guard Cutter Boutwell. Not one life was lost. The Prinsendam sank seven days later. Although most rescues aren't as dramatic as this one, the Guard has saved the lives of hundreds of people; from recreational boaters to commercial mariners and fishermen on lakes, on rivers, in shore areas, and on the high seas.

DISTRICT C

Kodiak Archipelago • Southeast Islands

**SPONSOR STATEMENT – SJR 10**

**Page Two**

The ecological responsibilities of the Service were greatly expanded by the purchase of Alaska in 1867. Fur seals were being hunted into extinction due to the value of their coats. In 1870 Congress restricted the number that could be killed. Beginning in 1894, small parties of Revenue Cutter Service personnel were camped on the Pribilof Islands to prevent raids on the rookeries. On 11 May 1908, Revenue Cutters were given the authority to enforce all Alaskan game laws. Clean waters have been a concern for many decades. The Refuse Act of 1899 was the first attempt to address the growing problem of pollution and was jointly enforced by the Army Corps of Engineers and the Revenue Cutter Service. Today, the current framework for the Coast Guard's Marine Environmental Protection program is the Federal Water Pollution Control Act of 1972. The 200-mile zone created by the Fishery Conservation and Management Act of 1976 quadrupled the offshore fishing area controlled by the United States. The Coast Guard has the responsibility of enforcing this law.

One of the most visible missions of the Coast Guard is boating safety. Their philosophy toward boating safety has been to educate the public rather than carry out punitive measures. The boating fatality rate during 1981 was 8.3 deaths for each 100,000 craft as compared to 21.4 deaths during 1965. There are over fourteen million boats in American waters requiring constant vigil.

In 1959, Fidel Castro took power in Cuba and within two years, the Coast Guard established patrols to aid refugees and to enforce neutrality, interdicting the transportation of men and arms. During the early 1970s, drug interception, took on increasing emphasis, which continues today. From 1963 through 1979, the Coast Guard seized 304 vessels, confiscated over \$4 billion in contraband and made 1,959 arrests.

It is not only this law enforcement authority, but also the Guard's military structure and the humanitarian functions that make it a unique arm of national security and enables it to support broad national goals.

We in Alaska are proud of the United States Coast Guard. It is my hope that through this resolution, the United States Congress hears a unified voice from our community. We want the Guard to remain "semper paratus" throughout the Twenty-First Century.

**SJR**

**12**

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## Senator Loren Leman

# SJR 12: ELIMINATE MARRIAGE TAX PENALTY

### I. Many people are effected by the Marriage Penalty

Income Category	Percentage of Tax Returns Filed Showing Marriage Penalty
Less than \$20K	12%
\$20 - \$50K	44%
\$50 - \$100K	54%
\$100K and above	54%

(Congressional Budget Office)

### II. Income Tax Rates Are Lower for Two Single Filers compared to Married Joint Filers

Single filer	Married Joint
\$25K - \$3,754 (2 singles = \$7,508)	\$50K - \$8,307
\$35K - \$6,395 (2 singles = \$12,790)	\$70K - \$13,907

(based on information provided in IRS 2000 Tax Rate Schedule)

- These examples show that a married couple pays more tax than two single people living together who earn the same income.

# FISCAL NOTE

STATE OF ALASKA  
2001 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SJR 12  
(S) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
Title: Eliminate Marriage Tax Penalty BRU: \_\_\_\_\_  
Sponsor: Senator Leman Component: \_\_\_\_\_  
Requester: \_\_\_\_\_ Component Number: \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2001) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: SENATE STATE AFFAIRS COMMITTEE Phone 465-4522

Senator: /s/ SENATOR THERRIALT Date 2/5/01  
Committee Chair

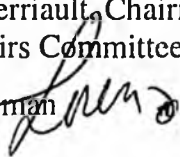
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Senator Loren Lemman

## Memorandum

**To:** Senator Gene Therriault, Chairman  
Senate State Affairs Committee

**From:** Senator Loren Lemman 

**Date:** February 1, 2001

**Re:** Request for hearing, SJR 12 Elimination of Marriage Penalty

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Please schedule SJR 12 for a hearing in Senate State Affairs Committee at your earliest convenience.

SJR 12 calls upon Congress to reduce the marriage penalty.

I have attached a copy of the original resolution. Please contact my staff aide Paul Roetman at extension 3712 if you require additional information.

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## Senator Loren Leman

### **SJR 12 – Eliminate Marriage Tax Penalty**

**“Urging the United States Congress to amend the Tax Code to reduce the marriage tax penalty.”**

SJR 12 expresses the Legislature’s support for reducing the imbalance in the federal Tax Code that taxes married couples disproportionately more than unmarried couples earning the same level of income.

The marriage penalty impacts millions of married couples. According to the Congressional Budget Office (CBO), under current tax laws married couples pay an average of \$1,480 more in taxes each year than two unmarried people.

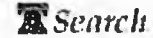
The two primary penalties are the standard deduction and the graduated rate structure. First, the standard deduction amount for joint filers is not twice that for those claiming single status. This means an unmarried couple can deduct more from their income than a married couple. Second, income rate structures that push taxpayers into higher brackets are less than twice for joint filers than for those claiming single status. This means that a married couple may be forced into a higher tax bracket before an unmarried couple earning the same combined income.

Congress attempted to deal with the marriage penalty last year when it passed the “Marriage Tax Relief Reconciliation Act of 2000.” This would have provided tax relief to married couples penalized under current tax laws, but President Clinton vetoed the measure. Because President Bush and his Cabinet have expressed strong support for reducing taxes, Congress should revisit the marriage penalty.

**Prepared by Paul Roetman, Staff Aide to Senator Loren Leman (907-465-3712)  
Last update: February 2, 2001**



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## Number of Couples Affected by Marriage Penalty at the State and Congressional District Level

### Alaska

State	Congressional District	Name of Representative		Party	Number of Couples Affected By Marriage Penalty
AK	At Large	Don	Young	R	66,876

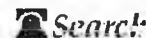
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## A REPORT OF THE HERITAGE CENTER FOR DATA ANALYSIS

No. 00-02

February 8, 2000

# WHO PAYS THE MARRIAGE PENALTY? NEW ESTIMATES BY CONGRESSIONAL DISTRICT AND STATE

William W. Beach and Rea S. Hederman<sup>1</sup>

Link to:  
| [PDF \(172k\)](#) |  
Optimized for [Adobe Acrobat 4.0](#).

The House and Senate tax-writing committees will try again this year to develop legislation to reform the marriage penalty in the tax code. The challenge is to craft a measure that Congress can pass and the President can sign. Last year, President Bill Clinton vetoed the Taxpayer Refund and Relief Act, which contained \$117 billion in marriage penalty relief over the next 10 years. The veto forced about 25 million working families to pay more in income taxes because of the marriage penalty, and it perpetuated the troubling second-earner bias forcing lower earning spouses to see their pay frequently taxed at higher rates than the income of their higher earning spouses.<sup>2</sup>

This *Report* contains new estimates of the number of couples in each congressional district and state who pay some form of the marriage penalty in 2000. (See [table](#).)<sup>3</sup> These estimates are based on data from the 1999 March Current Population Survey and cover all combinations of the three most frequent reasons that marriage penalties arise:

- Married taxpayers who qualify for the Earned Income Tax Credit (EITC) see that credit phase out more quickly than if they had applied for it as single taxpayers.

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- Married taxpayers who do not itemize claim a standard deduction that is less than twice the standard deduction for single taxpayers.
- The taxable income threshold for the 28 percent tax rate (and all rates above 28 percent) is less than twice that of single taxpayers, which means that the income of the lower earning married worker frequently is taxed at a marginal rate that is higher than that of the higher earning spouse.



## WHAT IS THE MARRIAGE PENALTY?

The marriage penalty stems from the federal government's effort to do three things: 1) tax equal-earning couples at the same rate, 2) tax them at progressive marginal tax rates, and 3) recognize the economic benefits of marriage by requiring married couples to file their taxes on a schedule of tax rates that treats them less favorably than it does single taxpayers. As the Congressional Budget Office notes, "The incompatibility of those three goals...results in continuing tension within the tax code."<sup>4</sup> This tension in the tax code harms the pocketbooks of American families and the institution of marriage, and has significant implications for the economic and cultural health of the nation.

The marriage penalty is arguably the most significant of the biases affecting the secondary earner (the spouse with the lower income). As two prominent tax economists have observed, "the basic source of the marriage tax is the fact that key elements of the tax law depend on an individual's family situation, including the rate schedule, the standard deduction, and the earned income tax credit. Hence, the act of getting married per se affects individuals' tax liabilities, even if their work and saving decisions stay the same."<sup>5</sup>

In most cases, federal income tax laws require that married couples file joint tax returns based on the combined income of husband and wife. When a husband and wife both work, the secondary earner is, in effect, taxed at the top rate of the primary earner. As a consequence, a married couple may pay more taxes than they would if each spouse were taxed as a single wage earner.

According to the Congressional Budget Office, an estimated 42 percent of married couples incurred a marriage penalty in 1996: "more than 21 million married couples paid an average of nearly \$1400 in additional taxes in 1996 because they must file jointly."<sup>6</sup> Most severely affected by the marriage penalty were couples with a more equal division of income between husband and wife and those who receive EITC benefits. Essentially, Americans with the lowest incomes and families dependent on two wage earners shoulder the largest marriage penalty burdens under the current tax policy.

Consider what happens to two \$30,000-a-year wage earners who decide to marry. As a single individual, a \$30,000-a-year wage earner would pay \$3,000 in taxes. The principle of marriage neutrality would mean that when a \$30,000-a-year wage earner marries another \$30,000-a-year wage earner, the couple's tax liability should be \$6,000. Under the current joint filing schedule, however, this married couple--that now earns a total of \$60,000--owes \$8,400 in tax per year, a \$2,400 penalty for marrying each other.

According to the ideal of marriage neutrality, tax burdens should not be altered when two people decide to marry. However, the goal of progressive taxation is violated under such circumstances.

Progressivity states that a person (or, under today's joint filing requirement, a combination thereof) who has twice the income of another would pay more than twice in taxes. The current tax system sides with the ideal of progressive taxation and punishes hardworking Americans.

## THE EFFECT ON THE NATION

The marriage penalty can have significantly negative economic implications for the country as a whole. Not only does this feature of the tax system stand as a likely obstacle to marriage, it can actually discourage a spouse from entering the workforce. Edward McCaffery, a law professor at the University of Southern California has said that: "By adding together husband and wife under the rate schedule, tax laws both encourage families to identify a primary and secondary worker and then place an extra burden on the secondary worker because her wages come on top of the primary earner's. The secondary earner is on the margin."<sup>7</sup>

As the American family realizes lower income levels, the nation realizes lower economic output. From a strictly economic standpoint, the fact that potential workers would avoid the labor force as a result of peculiarities in the tax code is a clear sign of a failure to maximize eligible resources. As a result, the nation as a whole fails to reach its economic potential, which is demonstrated by decreased earnings, output, and international competitiveness.

## METHODOLOGY

This analysis estimates the number of married taxpayers who are affected by marriage penalties in the tax code that stem from the standard deduction, taxable income thresholds for marginal tax rates, and the phase-out structure of the Earned Income Tax Credit (EITC). The vast majority of couples that we estimate to be affected by a marriage penalty are two-earner families in which the secondary earner's wages are a significant portion of a family's income and taxed at a higher marginal rate. Readers should note that these incidence estimates cannot be directly employed to estimate the dollar amount of penalty per family due to differences in the marginal rate structure and the EITC.

We employed the March 1999 Current Population Survey, which contains 1998 income and demographic data, to determine the number and type of families that suffer the marriage penalty in each state.<sup>8</sup> We then used the most recent IRS Public Use File to determine the percentage of families in each tax bracket that typically use the standard deduction instead of itemizing their taxes.<sup>9</sup>

We assumed that married taxpayers will incur a marriage penalty if they had two earners in a tax bracket that is higher than 15 percent or if they were likely to use the standard deduction in the 15 percent bracket. We also assumed that married families receiving the EITC suffer a penalty due to the steeper phase-out of the credit for married taxpayers

than for single taxpayers. Eligibility for the EITC is determined on the qualifying income of the taxpayers. The phase-out range for married taxpayers is less than twice that of two single taxpayers. Readers should note that the number of families who do not currently receive the EITC but would if they were both single was not used in this analysis.

The estimated percentage of families suffering a penalty at the congressional district level was derived from the 1990 Census updated to the 104th Congress. The percentage of families likely to suffer a penalty was held constant for families in 1998. The overall number of families affected in 1998 is based on U.S. Treasury estimates of 25 million.<sup>10</sup>

*--William W. Beach is Director of the Center for Data Analysis at The Heritage Foundation, and Rea S. Hederman is a Policy Analyst in the Center.*

### Tables

#### Number of Married Couples Affected by the Marriage Penalty by Congressional District and State

1. Alabama-California (Districts 1-9)
2. California (Districts 10-52)
3. Colorado - Florida (Districts 1-17)
4. Florida (Districts 18-23) - Illinois (Districts 1-13)
5. Illinois (Districts 14-20) - Kentucky
6. Louisiana - Massachusetts
7. Michigan - Mississippi
8. Missouri - New Jersey
9. New Mexico - North Carolina (Districts 1-4)
10. North Carolina (Districts 5-12) - Oklahoma
11. Oregon - South Carolina
12. South Dakota - Texas
13. Utah - West Virginia
14. Wisconsin-Wyoming and U.S. Total

Note: Estimates may not sum due to rounding. Population data based on 1990



# FAMILY RESEARCH COUNCIL

FAMILY, FAITH AND FREEDOM

February 5, 2001

The Honorable Loren Leman  
Senate Majority Leader  
State Capitol  
Juneau, AK 99801-1182

Dear Majority Leader Leman:

On behalf of Family Research Council and the American families we represent, thank you for making marriage penalty relief a top priority this year. We wholeheartedly support your resolution to eliminate the marriage penalty tax. It is because of your commitment to this important family issue that we can begin to eliminate the unjust marriage penalty.

**Eliminating the marriage penalty treats married couples equally with unmarried individuals.** Taking steps to relieve and eliminate the unfair marriage tax provides the government an opportunity to recognize and support the vital contribution marriage makes to the betterment of society.

Polls show that an overwhelming majority of Americans think that the marriage penalty is unfair and should be eliminated. According to an August 1999 Wirthlin Worldwide poll, **85% of Americans believe the marriage penalty is unfair, and 80% are in favor of eliminating the marriage penalty. Eighty-nine percent (89%) of married women and 89% of working and married mothers feel that the marriage penalty is unfair (the polling company/Wirthlin Worldwide, 10/97). Finally, 67% of Americans support using the budget surplus to eliminate the marriage penalty (Harris poll, 12/97).**

Thank you again for your commitment to promoting marriage and to alleviating the tax burden on America's families. We look forward to working with you to return Americans' hard-earned money.

Sincerely,

Charles A. Donovan  
Executive Vice-President

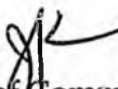
**SJR**

**13**

## MEMORANDUM

DATE: April 1, 2001

TO: Robert D. Storer  
Executive Director

FROM: Jim Kelly   
Director of Communications

SUBJECT: Hypothetical look backwards at the effects of SJR 13

The Alaska Permanent Fund Corporation (APFC) has prepared the attached spreadsheet, "Hypothetical look backwards at the effects of SJR 13" to answer several questions.

Q. If SJR 13 had been in effect in the past, how much money would have been available under the 5 percent limit? Answer: In 2000, for example, \$1,207,460,000 would have been available.

Q. What percentage of that would have been taken up by the dividend? Answer: In 2000, for example, \$1,173,000,000 would have been taken up by the dividend.

Q. How much residual income after dividends would have been available for other uses? Answer: In 2000, for example, \$35,000,000 would have been available for other uses.

### What else does the spreadsheet show?

1. The larger the market value of the Fund, the larger the amount of income available for distribution, for whatever purpose, under the payout limit of 5 percent of the Fund's five-year average market value.
2. Dividends take a larger percentage of the distribution in those years when the financial markets produce above-average returns, and a smaller percentage in those years when returns are average or below-average.

3. There have been, and there could be again, years in which the entire 5 percent available would be taken up by the dividend under the current formula.
4. On average, the ratio between dividends under the current formula and the residual available will approximate 75-80 percent to dividends, 20-25 percent to residual. Over the long term, that is a reasonable expectation for the current dividend formula under a 5 percent of market value (POMV) payout mechanism.
5. The spreadsheet overstates the amount of income available for distribution because it does not show the effect of actually paying out the residual income available under the 5 percent limit; that is why it is labeled hypothetical. Intuitively, if the Fund had paid out more money in the earlier years, there would be less income earned in the future years and less available for distribution. The APFC believes that the amount of residual income available will likely be in the range of \$175-\$300 million per year.

#### **How to read the spreadsheet**

The **first** column in the spreadsheet, shows the year-end Permanent Fund market values (pre-distribution of income.) These numbers come from the bottom line of the balance sheet in the APFC's annual financial statements.

The **second** column takes the five-year average of the first column.

The **third** column shows actual and projected dividends which have been computed according to the current dividend formula (which excludes unrealized gains/losses.)

The **fourth** column expresses the third column as a percentage of the second column.

The **fifth** column shows the amount of Fund income available for appropriation under SJR 13. It is 5 percent of column two.

The **sixth** column simply indicates that the fifth column equals 5 percent of the second column.

The **seventh** column shows the amount of Fund income available as a residual of subtracting the dividend distribution (the third column) from the total available under SJR 13 (the fifth column)

The **eighth** column shows the seventh column as a percentage of the second column.

# Alaska Permanent Fund Corporation

## Hypothetical Look Backwards at the Effects of SJR 13

	1	2	3	4	5	6	7	8	
						SJR 13		Residual	
	Year-End		Dividend	Dividend		Income	Residual	Income	
	Permanent Fund		Distribution	Distribution		Available	Income	Available	
	Market Value		Distribution	as a % of		as a % of	Available	as a % of	
	(Pre-Distribution	5-Year Average	(Based on	5-Year Average	Under 5% Limit	5-Year Average	Under the	5-Year Average	
FY	of Income)	Market Value	Current Law)	Market Value	(Per SJR 13)	Market Value	5% Limit	Market Value	FY
83	4,580								83
84	5,218								84
85	6,969								85
86	8,783								86
87	9,317	6,973.43	391	5.61%	348.67	5.00%	(42)	-0.61%	87
88	9,898	8,037.11	424	5.28%	401.86	5.00%	(22)	-0.28%	88
89	11,019	9,197.44	460	5.00%	459.87	5.00%	(0)	0.00%	89
90	11,962	10,195.96	487	4.78%	509.80	5.00%	23	0.22%	90
91	12,923	11,023.86	489	4.44%	551.19	5.00%	62	0.56%	91
92	14,228	12,006.15	488	4.06%	600.31	5.00%	112	0.94%	92
93	15,975	13,221.52	532	4.02%	661.08	5.00%	129	0.98%	93
94	15,764	14,170.41	556	3.92%	708.52	5.00%	153	1.08%	94
95	17,126	15,203.20	565	3.72%	760.16	5.00%	195	1.28%	95
96	19,037	16,426.00	643	3.91%	821.30	5.00%	178	1.09%	96
97	22,138	18,007.87	747	4.15%	900.39	5.00%	153	0.85%	97
98	25,015	19,815.98	893	4.51%	990.80	5.00%	98	0.49%	98
99	26,446	21,952.46	1,045	4.76%	1,097.62	5.00%	53	0.24%	99
00	28,110	24,149.29	1,173	4.86%	1,207.46	5.00%	35	0.14%	00
01	27,427	25,827.20	1,164	4.51%	1,291.36	5.00%	128	0.49%	01
02	28,655	27,130.72	1,158	4.27%	1,356.54	5.00%	199	0.73%	02
03	29,979	28,123.48	1,103	3.92%	1,406.17	5.00%	303	1.08%	03
04	31,441	29,122.50	1,065	3.66%	1,456.12	5.00%	391	1.34%	04
05	33,039	30,108.28	1,071	3.56%	1,505.41	5.00%	434	1.44%	05
06	34,733	31,569.62	1,148	3.64%	1,578.48	5.00%	431	1.36%	06
07	36,475	33,133.60	1,205	3.64%	1,656.68	5.00%	451	1.36%	07
08	38,287	34,795.07	1,266	3.64%	1,739.75	5.00%	473	1.36%	08
09	40,168	36,540.37	1,331	3.64%	1,827.02	5.00%	496	1.36%	09
10	42,122	38,356.97	1,398	3.64%	1,917.85	5.00%	520	1.36%	10
11	44,149	40,240.09	1,467	3.65%	2,012.00	5.00%	545	1.35%	11

- That the state remains years away from needing to tap additional sources of state revenue.

Copies of the spreadsheet containing the full *ALASKA BUDGET REPORT* analysis are available to subscriber-clients.

## **ALASKA PERMANENT FUND**

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### **Earnings reserve to hit \$1.9 billion, as fund eyes first annual loss**

A September 30 management report published by the Alaska Permanent Fund Corporation projects that balance available for appropriation in the fund's earnings reserve at the end of FY 99 will be \$1.9 billion, up by \$521 million from its \$1.3 billion balance at the end of FY 98.

At during the last legislative session APFC projections put the FY 98 ending earnings reserve balance at \$575 million, but realized gains on sales of securities, mostly stock, pumped up FY 98 earnings and added to the reserve. Sen. Robin Taylor complained then that past APFC projections had underestimated earnings.

"They are always giving us that story," fumed Taylor [see **PF earnings reserve appropriation would cut dividends**, *ALASKA BUDGET REPORT*, April 8, 1998].

During the first three months of the year, the fund lost \$860 million, and APFC's September management report projects that the fund will lose \$364 million in FY 99. Income from interest, dividends, and appreciation in the fund's portfolio of bonds was more than offset by a \$1.4 billion loss on its holdings of stocks. The report projects that the overall FY 99 rate return on fund assets will be a -0.5 percent. The real rate of return, accounting for inflation would be -2.3 percent.

The projections are calculated every month in accordance with a standard formula. Corporation officials said that the vigorous performance of the U.S. stock market during October will likely result in the projected loss turning into a small gain when the October management report is published in mid-November.

Until this July the fund reported its income without included unrealized gains and losses on stock and bond investments, but rules issued by the Government Accounting Standards Board now require paper profits and losses to be included; APFC reports this value as "GASB income."

Since the fund began operations in 1977, it has never shown an annual loss. Historical fund income, whether as originally reported or as restated under the GASB rule.

The calculation of permanent fund income available for appropriation—called "statutory net income"—and the share of that income going to the dividend program—continues to be governed by the old rules. The September 30 management report projects FY 99 statutory net income at \$1.8 billion, down from \$2.6 billion in FY 98.

Despite the projected decline in income, the dividend appropriation will increase, under the influence of an averaging formula that ties it to income over the previous five years. APFC estimates that next year's dividend appropriation will be \$969 million, up by 9 percent from last year.

Notwithstanding the reduced income available for appropriation, and the increased claim for the dividend, low inflation means that the earnings reserve will again show substantial growth.

### **Lawyers say feds unlikely to tax permanent fund**

Is the Alaska permanent fund vulnerable to being hit with federal taxes? Not according to a secret analysis of the issue presented by Department of Law government affairs attorney Jim Baldwin to a closed-door session of the of the Alaska Permanent Fund Corporation's board of trustees in April.

"My own view, based on what we heard, is that we are in better shape now than we were ten years ago, when they last looked at the issue," said trustee chair Eric Wohlforth. Most of the improvement in the fund's legal claim to tax-exempt status is the result of court rulings in the last decade that have tended to rebuff efforts by tax collection agencies to narrow the interpretation of tax exemptions traditionally allowed to government enterprises, he said. Wohlforth is a private attorney who specializes in acting as bond counsel for governments, government authorities and public corporations.

Attorney General Bruce Botelho said a 1988 legal analysis of the issue was done by Morrison & Forrester, a national law firm that was assisting the state then on several high-profile cases to collect disputed oil revenue.

According to Wohlforth, Morrison and Forrester said that a challenge to the fund's tax exemption could be based on the APFC's status as an entity separate from the rest of state government, and an argument made that the functions of the APFC are essentially non-governmental. The firm recommended several steps the state could take to more firmly integrate the fund with the functions of state government.

"We couldn't do most of those things," Wohlforth said.

In a separate interview, APFC Executive Director Byron Mallott confirmed that the case for tax exempt status wasn't strengthened by any organizational or programmatic changes to the fund. "It was largely external, based on evolution of the law."

Mallott said several factors caused the state's lawyers to suggest another look at the issue, including a constitutional amendment proposal in February 1997 by Sens. Lyda Green, Loren Leman, and Rick Halford that would have required a vote of the people before spending undistributed income from the earnings reserve of the permanent fund for anything except the dividend and inflation-proofing.

Botelho said in an interview that he also wanted the state to be prepared in the event that the interest of federal tax officials was stimulated by a May 1996 newspaper column by Juneau economist David Reaume, and November 1997 newspaper reports of remarks by former APFC Executive Director Dave Rose at a conference on the future of the fund sponsored by APFC. Reaume and Rose both suggested that the fund might be considered fair game for the federal government unless the state was willing to take some of the fund income to support state government.

"[T]he only thing the Permanent Fund Corp. has ever done is to generate income for the private citizens of Alaska through the permanent fund dividend program," wrote Reaume. "More important, many Alaskans have come to believe that this is all it should ever do. If that position is ratified by continued failure to use part of Permanent Fund profits to finance state government, then the IRS well may constructively define the Permanent Fund Corp. to be a private corporation.

"[W]e may not have the option of the Permanent Fund not funding government for much longer. If failure to use Permanent Fund profits to finance a reasonable portion of state government operations leads to the federal government's capturing 35 percent of those profits, then the actual choice will be either to fund state government or to fund the federal government. Under these circumstances, I know where my vote will fall."

Rose said in an interview that his concerns were based on the increasing size of the dividend. "As it gets bigger, it's bound to attract more and more attention."

The executive session to hear Baldwin's briefing on the Department of Law's analysis lasted 28 minutes, according to APFC board minutes.

"I don't think we have a problem, at least not now," commented Peter Bushre, the fund's chief financial officer, who coordinated with the Department of Law on the recent review.

# **SJR 13 Projections**

Submitted to Senate State Affairs Committee 2/21/02

## **Assumptions**

- Legislative passage and public approval of SJR 13
- Distribution of full 5% of total Fund market value
- Dividend: statutory formula
- Inflation-proofing: statutory formula
- Current APFC asset allocation
- Oil revenue: DOR Fall 2001 forecast
- Actual Fund data through December 2001
- 2002 Callan Associates Inc. capital market assumptions





**Alaska Permanent Fund Corporation**

P.O. Box 25500 Juneau, Alaska 99802-5500  
(907) 465-2047

May 10, 2001

Honorable Norman Rokeberg  
Chairman, House Judiciary  
State Capitol, Room 118  
Juneau, Alaska 99801-1182

Re: HJR 15 -- Constitutional amendment for inflation-proofing the Alaska Permanent Fund

Dear Representative Rokeberg:

This is to provide some information and make a request regarding HJR 15, the Board's proposed constitutional amendment for inflation-proofing the Alaska Permanent Fund.

Late in the session, we had a hearing on SJR 13 (the companion bill to HJR 15) in the Senate State Affairs Committee. At that hearing we were presented with a copy of a February 12, 2001 memo prepared by Tamara Cook, the director of Legal Services, raising certain legal issues. Subsequently, we asked Ron Lorensen, outside counsel for the Alaska Permanent Fund Corporation (APFC), to review and comment on Ms. Cook's memo discussing the above-referenced bill. A copy of Ms. Cook's memo and Mr. Lorensen's memo, dated May 9, 2001, are enclosed for your information.

The APFC Board of Trustees held one of its regular meetings here in Juneau on April 30 - May 1. During the Board's work session on May 1, the Board, staff and Mr. Lorensen spent over an hour discussing several of Ms. Cook's comments and concerns. After those discussions, the clear consensus on the Board continues to be strong support for maintaining the existing distinction between principal and income contained in the Constitution and for continuing the Constitution's present protection of principal from appropriation by the Legislature.

In this regard, the Board considered alternative approaches both to the operation of the amendment and to the language of the amendment. At the conclusion of those discussions, the members of the Board reaffirmed their view that the proposed amendment as presently drafted provides the best approach to implementing the Board's policy goals for protecting the Fund for the benefit of both present and future Alaskans.

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

# SJR 13 Projections

Submitted to Senate State Affairs Committee 2/21/02

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Range of **total 5% payout** (in millions)

	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08
Top quartile	\$1,343	\$1,397	\$1,439	\$1,496	\$1,571	\$1,668
<b>Median</b>	\$1,313	\$1,330	\$1,323	\$1,368	\$1,420	\$1,464
Bottom quartile	\$1,260	\$1,007	\$984	\$1,031	\$1,033	\$1,020

Range of **dividend distribution** (in millions)

Top quartile	\$930	\$945	\$953	\$1,086	\$1,270	\$1,341
<b>Median</b>	\$853	\$779	\$732	\$807	\$929	\$1,039
Bottom quartile	\$778	\$620	\$509	\$551	\$570	\$602

Range of **residual income** (in millions)

Top quartile	\$432	\$497	\$545	\$519	\$452	\$417
<b>Median</b>	\$391	\$418	\$438	\$390	\$318	\$272
Bottom quartile	\$331	\$255	\$265	\$203	\$111	\$23



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In this regard, the Board considered alternative approaches both to the operation of the amendment and to the language of the amendment. At the conclusion of those discussions, the members of the Board reaffirmed their view that the proposed amendment as presently drafted provides the best approach to implementing the Board's policy goals for protecting the Fund for the benefit of both present and future Alaskans.

Honorable Norman Rokeberg  
May 10, 2001  
Page 2

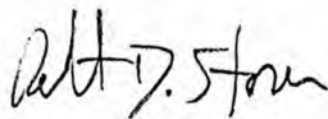
While it is likely that interpretational issues will arise, the Board believes it is important to keep the proposed amendment as short and uncomplicated as possible. The Trustees further believe that they can, in the course of presenting written and oral testimony which helps create the legislative record, make it quite clear that the proposal is definitely intended to continue to keep the principal inviolate.

Now that the first session of this legislature has drawn to a close, the Board asked that I express its hope that your committee and the remaining committees of referral in both houses will continue to move ahead with deliberations on the proposed amendment over the interim and into the second session. In particular, we urge that further hearings on the bills be scheduled so that, if they continue to receive favorable support from the committees, they can be taken up by each house relatively early in that session.

By approving the amendment early next year and avoiding pulling it into the last-minute flurry of negotiations and compromises over funding mechanisms and sources that can arise in the closing days of a legislative session, the Legislature would likely be seen by the public as making a strong statement of its support for providing additional protection to the Fund. Also, the earlier the amendment is passed by the Legislature, the sooner the public discussion and debate over the merits of the proposal can begin in advance of the 2002 general election.

Thank you for your continued interest in the Permanent Fund and attention to this issue.

Sincerely,



Robert D. Storer  
Executive Director

Enclosures

c: Board of Trustees

LAW OFFICES OF  
SIMPSON, TILLINGHAST, SORENSEN & LONGENBAUGH, P.C.

ONE SEALASKA PLAZA, SUITE 300 • JUNEAU, ALASKA 99801

TELEPHONE: 907-586-1400 • FAX: 907-586-3065

To: Jim Kelly, APFC

From: Ronald W. Lorensen, STS&L

Date: May 9, 2001

Re: SJR 13/HJR 15--Constitutional amendment for inflation-proofing the Alaska  
Permanent Fund

Our File No.: 846.14

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You have asked for my comments on the February 12, 2001 memo from Tamara Brandt Cook, director of the Legislature's Division of Legal and Research Services, to Senator Gene Therriault discussing the Board of Trustees's proposed constitutional amendment for inflation-proofing the fund. I address her concerns in the order they are discussed in that memo:

1. Title of bill. I think Ms. Cook's observation that the title of the proposed resolution does not reflect its contents is probably the result of an insufficient understanding of the use of percent of market value (POMV) payout rules. On its face, the POMV rule expressed by the resolution appears to be intended simply as a limit on the Legislature's ability to appropriate Fund income (which is not expressed by the title). However, as the Board and those of us who have been studying endowment models and the use of POMV payout rules have come to understand, the real purpose of such a rule is to assure the long-term viability of a fund by allowing, over the long term, only the real portion of the income earned by that fund to be spent. With a POMV spending rule, a fund retains that portion of its income attributable to inflation, with the expectation that the fund will grow (again, over the long term) at the same rate as inflation--thereby "inflation-proofing" the fund.

2. Distinction between principal and income. Ms. Cook does not explain why she believes that retaining the distinction between principal and income of the Fund makes little sense. In any event, it is my understanding that continuing this distinction and assuring that Fund principal remains "inviolable" is an important policy goal for the Board in proposing this constitutional amendment (see my further discussion of this point at Paragraph 3, below). I think Ms. Cook is correct that, by retaining the distinction, the constitution's current requirement that Fund principal be used only for those income-producing investments specifically authorized by law would not apply directly to the Fund's income.

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E. BUDD SIMPSON • JON K. TILLINGHAST • STEPHEN F. SORENSEN • LESLIE LONGENBAUGH

L. MERRILL LOWDEN • RONALD W. LORENSEN (OF COUNSEL)

However, the Legislature has already addressed that issue in AS 37.13.145(a) by requiring that money in the earnings reserve account be invested in investments authorized for the investment of Fund principal under AS 37.13.120 ("the legal list").

3. Continued protection of Fund principal. It appears from Ms. Cook's discussion in the third paragraph of her memo that she does not interpret the proposed constitutional amendment to continue to protect Fund principal from appropriation and expenditure by the Legislature (i.e., if the earnings reserve account in a particular year was smaller than the permissible payout for that year, the difference could be satisfied out of principal). As indicated above, that interpretation runs counter to the Board's policy goal of keeping Fund principal "inviolated."

In our (the Board's and staff's) efforts to keep the proposed amendment as short and uncomplicated as possible, we have recognized that this interpretational issue may arise. However, because (i) the amendment retains the distinction between principal and income and (ii) does not in any way alter the existing constitutional language that provides the basis for treating Fund principal as "inviolated",<sup>1/</sup> I believe that the better interpretation of the amendment is that principal must continue to be inviolated and that the Legislature cannot "dip into" principal in order to make a payout otherwise permitted under new subsection (b). As we have discussed with the Board, one way to strengthen the analytical basis for this latter interpretation is for the Board and staff to create a written and testimonial record that makes it clear that the intended effect and interpretation of the amendment is to continue the special protection that Fund principal currently enjoys. This has, in fact, been done consistently since the Board first formally proposed the amendment at its December, 2000 meeting in Anchorage.

4. Effective date of the amendment. Under Section 1, Article XIII of our constitution, a proposed amendment to the constitution must be presented to the voters at the next general election after it is passed by the Legislature. Under that same provision, if the amendment is approved by the voters, it takes effect 30 days after the election results are certified by the lieutenant governor, unless a different date is provided for in the amendment. The amendment as presently proposed does not specify an effective date. Given the timing of the next general

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<sup>1/</sup> The first sentence of the provision creating the Alaska Permanent Fund (Section 15, Article IX) provides the basis for keeping Fund principal "inviolated." It reads as follows:

At least twenty-five per cent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund, *the principal of which shall be used only* for those income-producing investments specifically designated by law as eligible for permanent fund investments. (emphasis added)

The proposed amendment does not change this language.

election (November 5, 2002)--and assuming there is no unusual, protracted election contest as recently occurred in the 2000 Presidential election in Florida--the amendment, if approved by the voters, would almost certainly take effect before the beginning of the 23<sup>rd</sup> Alaska Legislature on January 21, 2003 (the third Tuesday in January following a gubernatorial election--AS 24.05.090).

In her memorandum, Ms. Cook suggests that having the amendment take effect in the middle of a fiscal year would be awkward, as it would allow the Legislature to appropriate any amount of the Fund's income in the earnings reserve account during the first part of the 2003 fiscal year, while restricting the amount available to the Legislature during the latter part of that fiscal year, after the amendment takes effect. Why or how this situation might be awkward is not readily apparent to me, however, considering that, unless the 22<sup>nd</sup> Alaska Legislature convenes itself in special session after its regular adjournment in May, 2002 for the express purpose of appropriating money from the Permanent Fund, its first opportunity in FY 2003 to appropriate funds from the Fund will not arise until after the amendment takes effect.

In any event, the timing of the effective date of the proposed amendment raises a policy question for the Legislature, rather than a legal one. In terms of policy considerations, one could actually argue that providing for a July 1, 2003 effective date as suggested by Ms. Cook could actually undermine the chances for passage of the amendment. This is because the delayed effective date might be seen by those who are exceptionally distrustful of the Legislature and the political process as providing an after-the-fact opportunity for the Legislature to "raid" the Fund before the amendment, although passed by the voters, actually goes into effect.

5. Status of earnings reserve account when amendment takes effect. At the end of her memo, Ms. Cook indicates uncertainty about the status of the earnings reserve account when the amendment takes effect and then states her assumption that the entire balance of that account would be available for appropriation under the constitutional provision as it read before the amendment. I do not believe this assumption is correct--once the amendment takes effect, for any fiscal year, the POMV payout rule expressed in new subsection (b) will operate to limit the Legislature's ability to appropriate from the earnings reserve account to the amount calculated under that rule. Subsection (b) expressly applies to "appropriations from the permanent fund," and, under existing AS 37.13.145(a), the earnings reserve account is already a part of the Fund.<sup>2/</sup> Unless the Legislature changes current law before the amendment takes effect, that account will continue to be a part of the Fund on the effective date of the amendment and, thus, subject to the limitation of subsection (b) on appropriations from the Fund.

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<sup>2/</sup> AS 37.13.145(a) provides in pertinent part: "The earnings reserve account is established as a separate account in the fund. Income from the fund shall be deposited by the corporation into the account as soon as it is received

Jim Kelly, APFC  
May 9, 2001  
Page 4

If you have any questions about these comments or would like to discuss them further, please do not hesitate to contact me.

cc: Jim Baldwin, Assistant Attorney General, Department of Law

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

JK  
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 12, 2001

**SUBJECT:** Alaska Permanent Fund (Work Order No. 22-LS0534C)

**TO:** Senator Gene Therriault, Chair  
Legislative Budget and Audit Committee  
Attn: Heather Brakes

**FROM:** Tamara Brandt Cook  
Director *TBC*

You ask for my observations on this draft resolution proposing an amendment to the state constitution dealing with the permanent fund. The title does not reflect the contents of the resolution and, because a joint resolution is supposed to be treated like a bill under the Uniform Rules, normally the title is drafted to reflect the contents. However, because Art. II, sec. 13 only applies to bills, the title defect in this situation is only a procedural and not a constitutional problem. Likewise, a new subsection is normally added as a new bill section and the material is not underlined. The way subsection (b) has been added does not conform to the Legislative Drafting Manual, but will not be fatal to the validity of the resolution if it is adopted by the legislature and approved by the voters.

Substantively, I observe that it makes little sense to retain the distinction between principal and income in subsection (a), since appropriations allowed under subsection (b) are based on averaged market value of the fund and no longer on income generated by the fund. Furthermore, by retaining the distinction between principal and interest, the provision that addresses permanent fund investments applies only to investments of principal. There is no constitutional requirement that interest retained in the fund also "be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments." This seems a bit puzzling, but the legislature can address the investment of interest by law, so the approach probably does not create any great problem.

Subsection (b) is not as clear as might be desirable, but I think it can be applied. However, from my conversation with Mr. Jim Kelly, I gather that it is expected that only income of the fund will be available for appropriation. If this is the intended result, it has not been achieved. That is to say, if fund income is low for a period of years, it will be mathematically possible for an appropriation to be made based on the average of the market values formula that includes some fund principal. Perhaps, this possibility is so remote as not to be a serious problem.

Senator Gene Therriault, Chair  
February 12, 2001  
Page 2

I think it will be awkward for the constitutional amendment to spring into effect in the middle of a fiscal year and suggest that a July 1, 2003 effective date be added. Otherwise, for part of the year the legislature will be able to appropriate fund income, while at the end of the same year it will have access to an amount based on market value of the fund. Also, I am not sure about the status of the balance in the earnings reserve account on the day the amendment takes effect. I assume the entire balance on that day is available for appropriation under the constitutional language as it read prior to the amendment.

TBC:lmb  
01-044.lmb

AMENDMENT

OFFERED IN THE SENATE

TO: CSSJR 13(STA), Draft Version "S"

1 Page 2, line 12, following "**Transition**":

2 Insert "; **Suspension or Repeal of Subsection. (a)**"

3

4 Page 2, following line 16:

5 Insert a new subsection to read:

6 "(b) Notwithstanding Section 1 of Article XIII, the legislature may, by  
7 resolution concurred in by at least two-thirds of the members of each house, suspend  
8 for a definite duration or repeal Section 15(c) of Article IX. A resolution may be  
9 adopted under this subsection only after the commissioner of revenue provides written  
10 notice to the legislature that Section 15(c) of Article IX has or will adversely affect the  
11 federal tax status of the permanent fund."

# LEGAL SERVICES

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Director *TBC*

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Substantively, I observe that it makes little sense to retain the distinction between principal and income in subsection (a), since appropriations allowed under subsection (b) are based on averaged market value of the fund and no longer on income generated by the fund. Furthermore, by retaining the distinction between principal and interest, the provision that addresses permanent fund investments applies only to investments of principal. There is no constitutional requirement that interest retained in the fund also "be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments." This seems a bit puzzling, but the legislature can address the investment of interest by law, so the approach probably does not create any great problem.

Subsection (b) is not as clear as might be desirable, but I think it can be applied. However, from my conversation with Mr. Jim Kelly, I gather that it is expected that only income of the fund will be available for appropriation. If this is the intended result, it has not been achieved. That is to say, if fund income is low for a period of years, it will be mathematically possible for an appropriation to be made based on the average of the market values formula that includes some fund principal. Perhaps, this possibility is so remote as not to be a serious problem.

Senator Gene Therriault, Chair  
February 12, 2001  
Page 2

I think it will be awkward for the constitutional amendment to spring into effect in the middle of a fiscal year and suggest that a July 1, 2003 effective date be added. Otherwise, for part of the year the legislature will be able to appropriate fund income, while at the end of the same year it will have access to an amount based on market value of the fund. Also, I am not sure about the status of the balance in the earnings reserve account on the day the amendment takes effect. I assume the entire balance on that day is available for appropriation under the constitutional language as it read prior to the amendment.

TBC:lmb  
01-044.lmb



## APFC ANALYSIS OF SJR 13/HJR 15

May 5, 2001

### The proposal

The Board of Trustees of the Alaska Permanent Fund Corporation (APFC) unanimously recommends that the legislature approve Senate Joint Resolution 13 or House Joint Resolution 15 which would place before the voters a constitutional amendment to permanently inflation-proof the Fund.

SJR 13/HJR 15 (hereinafter referred to as SJR 13) accomplishes inflation-proofing by limiting the annual payout of Fund income to no more than 5 percent of the Fund's five-year average market value. This methodology protects the purchasing power of the entire Fund and provides the maximum amount of sustainable income to benefit current and future generations.

### The benefits

1. Provides constitutional protection against inflation for the total Permanent Fund, thereby more effectively safeguarding the Fund and increasing the amount protected.
2. Maximizes the total amount of Fund income which can be paid out in the future, at least as compared to higher payout rates, and does so in a way that balances the Fund's benefits fairly between the current generation and future generations.
3. Increases the likelihood that both the Fund's principal and its income will continue to grow in perpetuity in both nominal and real, inflation-adjusted dollars.
4. Makes available, beginning in 2003, \$175-\$300 million per year, depending on the Fund's market value, for purposes other than inflation-proofing and dividends. This amount will grow over time as the Fund grows.
5. Uses the percent of market value (POMV) payout methodology which smoothes volatility, treats realized and unrealized income equally as investment return, and is consistent with generally accepted accounting principles and modern endowment practice.
6. Lets lawmakers know in advance, within a relatively narrow range, how much Fund income will be available for appropriation each year.



### General Election November 5, 2002

**Section 15. Alaska Permanent Fund.** (a) At least twenty-five per cent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments. All income from the permanent fund shall be deposited in the permanent [GENERAL] fund [UNLESS OTHERWISE PROVIDED BY LAW].

(b) For any fiscal year, appropriations from the permanent fund shall be limited to five percent of the average of the year-end market values of the permanent fund for the last five fiscal years, including the fiscal year just ended. No other appropriations from the permanent fund may be made.

Yes [ / ] No [ ]

Alaska Permanent Fund Corporation

## **The analysis**

**Principal and inflation-proofing.** Under SJR 13, both the Fund's principal and the earnings reserve account would be inflation-proofed by constitutional mandate. In addition, there would be two constitutional limits on Permanent Fund spending: (1) principal would continue to be unavailable for appropriation; and (2) appropriations from the earnings reserve account in the future would be limited to no more than 5 percent of the Fund's average market value for the past five years. This would provide full inflation-proofing averaged over long periods of time. Accordingly, statutory inflation-proofing transfers to principal would no longer be necessary.

**Earnings reserve.** All income not appropriated under the 5 percent payout limit would be retained in the earnings reserve account to offset inflation over the long term and to provide a cushion for future payouts in periods of extended down markets. In 2003, the Fund's five-year average market value is projected at \$28 billion, which would limit the maximum payout that year to no more than \$1.4 billion.

**5 percent payout.** The 5 percent limit is chosen for three reasons: (1) 5 percent is on the high end of sustainable payout rate that still maintains the Fund's real value; (2) 5 percent allows greater distributions over time than a higher payout; and (3) 5 percent is what the majority of endowments pay out; e.g., 85 percent of all public endowment funds pay out 5 percent or less, and the median payout of endowments, according to a 1999 Greenwich Associates study, is 4.9 percent.

**Five-year averaging.** Under SJR 13, the annual payout may not exceed 5 percent of the Fund's market value averaged over the prior five years, including the fiscal year just ended. This methodology is chosen to dampen volatility and is consistent with the existing statutory five-year averaging provision for computation of the annual dividend.

**20-year perspective.** Under SJR 13, *if the full 5 percent of the Fund's five-year average market value were paid out*, the Fund would earn \$57 billion of total investment return over the next 20 years, of which \$28 billion would be earmarked for dividends and \$20 billion to inflation-proofing, leaving \$9 billion in residual income available for appropriation. The ending market value of the Fund in 2020 would be \$51 billion.

**Dividends.** This proposal does not affect the existing dividend program. It should be noted, however, that any future public policy decision to use an additional portion of Fund income for any purpose will affect the dividend, as will market volatility, but under SJR 13, these impacts would either be equal or diminished compared to the status quo.

**Residual income available for appropriation.** Except in the case of extraordinarily good financial markets, the 5 percent limit set by SJR 13 is above what is required to pay dividends per current law, leaving a residual amount available for appropriation. If the entire 5 percent were paid out, the residual amount is expected to range from \$175-\$300 million per year in a median case, growing over time as the Fund grows. Because of the mechanics of the existing statutory dividend formula, however, if the dividend in any year is extraordinarily high, the amount of the residual could be reduced to zero.



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You should not request an IRS private letter ruling if you plan to complete the trans regardless of the IRS tax decision. In such a case requesting the IRS private letter be senseless. In that case, you would either complete the transaction and hope th return is not audited by the IRS or complete the transaction, disclose all the details the tax return, and hope that the IRS agrees. An IRS private letter ruling would onl applicable where you intend to abide by the IRS tax decision and do not wish to tal of a tax audit.

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Associate Chief Counsel (Domestic)  
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 P.O. Box 7604  
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 Washington, DC 20044

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50%

665.0

661.5

684

710

732

Range of total 5% payout

	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>
Top Quartile	1,343.0	1,397.0	1,439.0	1,496.0	1,571.0	1,668.0
Median	1,313.0	1,330.0	1,323.0	1,368.0	1,420.0	1,464.0
Bottom Quartile	1,260.0	1,007.0	984.0	1,031.0	1,033.0	1,020.0

Range of dividend distribution (under current law)

	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>
Top Quartile	930.0	945.0	953.0	1,086.0	1,270.0	1,341.0
Median	853.0	65% 779.0	58% 732.0	55% 807.0	59% 929.0	65% 1,039.0
Bottom Quartile	778.0	620.0	509.0	551.0	570.0	602.0

78%

Range of residual income

	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>
Top Quartile	432.0	497.0	545.0	519.0	452.0	417.0
Median	391.0	35% 418.0	438.0	390.0	318.0	272.0
Bottom Quartile	331.0	255.0	265.0	203.0	111.0	23.0

Range of dividend distribution (under POMV version at 20%)

	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>
Top Quartile	268.6	279.4	287.8	299.2	314.2	333.6
Median	262.6	266.0	264.6	273.6	284.0	292.8
Bottom Quartile	252.0	201.4	196.8	206.2	206.6	204.0

Range of Residual Income

	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>
Top Quartile	1,074.4	1,117.6	1,151.2	1,196.8	1,256.8	1,334.4
Median	1,050.4	1,064.0	1,058.4	1,094.4	1,136.0	1,171.2
Bottom Quartile	1,008.0	805.6	787.2	824.8	826.4	816.0

Range of dividend distribution (under POMV version at 80%)

	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>
Top Quartile	1,074.4	1,117.6	1,151.2	1,196.8	1,256.8	1,334.4
Median	1,050.4	1,064.0	1,058.4	1,094.4	1,136.0	1,171.2
Bottom Quartile	1,008.0	805.6	787.2	824.8	826.4	816.0

Range of Residual Income

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Bottom Quartile	252.0	201.4	196.8	206.2	206.6	204.0

# 300

Sales Tax

30

Alcohol Tax

420

Residual Income

750

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## MEMORANDUM

February 12, 2001

**SUBJECT:** Alaska Permanent Fund (Work Order No. 22-LS0534C)

**TO:** Senator Gene Therriault, Chair  
Legislative Budget and Audit Committee  
Attn: Heather Brakes

**FROM:** Tamara Brandt Cook  
Director *TBC*

You ask for my observations on this draft resolution proposing an amendment to the state constitution dealing with the permanent fund. The title does not reflect the contents of the resolution and, because a joint resolution is supposed to be treated like a bill under the Uniform Rules, normally the title is drafted to reflect the contents. However, because Art. II, sec. 13 only applies to bills, the title defect in this situation is only a procedural and not a constitutional problem. Likewise, a new subsection is normally added as a new bill section and the material is not underlined. The way subsection (p) has been added does not conform to the Legislative Drafting Manual, but will not be fatal to the validity of the resolution if it is adopted by the legislature and approved by the voters.

Substantively, I observe that it makes little sense to retain the distinction between principal and income in subsection (a), since appropriations allowed under subsection (b) are based on averaged market value of the fund and no longer on income generated by the fund. Furthermore, by retaining the distinction between principal and interest, the provision that addresses permanent fund investments applies only to investments of principal. There is no constitutional requirement that interest retained in the fund also "be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments." This seems a bit puzzling, but the legislature can address the investment of interest by law, so the approach probably does not create any great problem.

Subsection (b) is not as clear as might be desirable, but I think it can be applied. However, from my conversation with Mr. Jim Kelly, I gather that it is expected that only income of the fund will be available for appropriation. If this is the intended result, it has not been achieved. That is to say, if fund income is low for a period of years, it will be mathematically possible for an appropriation to be made based on the average of the market values formula that includes some fund principal. Perhaps, this possibility is so remote as not to be a serious problem.

*Legislative Counsel's Review*

Senator Gene Therriault, Chair

February 12, 2001

Page 2

I think it will be awkward for the constitutional amendment to spring into effect in the middle of a fiscal year and suggest that a July 1, 2003 effective date be added. Otherwise, for part of the year the legislature will be able to appropriate fund income, while at the end of the same year it will have access to an amount based on market value of the fund. Also, I am not sure about the status of the balance in the earnings reserve account on the day the amendment takes effect. I assume the entire balance on that day is available for appropriation under the constitutional language as it read prior to the amendment.

TBC:lmb

01-044.lmb

Senator Gene Therriault, Chairman  
Senate State Affairs Committee  
Capitol Building, Room 121  
Juneau, Alaska 99801

February 21, 2002

Chairman and Members of Senate State Affairs,

My name is Jay Hogan, my wife and I live at 10741 Horizon Drive in Juneau Alaska and I am here today representing no one other than myself. For the record let me stipulate that at an earlier time, it would never have occurred to me to appear before any committee of the Alaska Legislature in opposition to a measure introduced by the Legislative Budget and Audit Committee!

In January 1970, Governor Keith Miller requested introduction of three measures to establish a "resources permanent fund". In a transmittal letter, Governor Miller stated, the "objective is to assure maximum long-term growth [of the fund] while providing an annually increasing source of income to the general fund." The two bills in the package passed the Senate but failed to move in the House. The third, a Constitutional amendment, made five percent of permanent fund market value annually available for "appropriation for general purposes"; this resolution failed to pass the Senate.

In March 1975, prompted by public concern over the disappearance of the \$900 million North Slope lease bonus, 36 Members of the House co-sponsored HB 324 establishing the "Alaska mineral lease bonus permanent fund". Fund principal was to be "invested in perpetuity"; fund income could be, "appropriated to provide funding for operating or capital expenditures for loan or grant programs" eligible for funding under the law. The Legislature passed this statutory permanent fund only to have it vetoed by Governor Jay Hammond as an "unconstitutional dedication of revenue".

In January of 1976, Governor Hammond submitted a sponsor substitute for HJR 39, his 1975 end-of-Session "fix" for the dedicated revenue problem. The substitute was a Constitutional amendment establishing the Alaska Permanent Fund. In his transmittal letter Governor Hammond emphasized, "The income of the fund would be deposited into the general fund without any permanent fund restrictions." The Resolution as introduced read; "All income from the permanent fund shall be deposited in the general fund." House Finance added, "unless otherwise provided by law" completing the sentence as it stands today, unchanged from 1976.

Mike Bradner, Speaker of the House in 1975-76, wrote in the March 1988 Juneau Report:

"The constitutional action creating the fund was also "not about" a lot of things. It was not about dividends, investment policy, unreserved income, and in fact, did not even attempt to tell Alaskans "when" and under "what" circumstances the proceeds of the fund might one day accrue to future Alaskans.

Discussion over the Permanent Fund often takes on a biblical connotation. But amidst all this rhetoric, the simple foundation of the Fund is embraced in the two

previously stated commandments – *to preserve a portion of current oil income, and to preserve it as a future “trust”*.

All the rest of the development of the Alaska Permanent Fund is essentially left to statutory construction. Future Legislatures through general law, as opposed to constitutional law, were left to fill in the details of the Fund. These details included creation of the Alaska Permanent Fund Corporation, the rules of “inflation-proofing” (injecting some Fund earnings into the principal to account for inflation), creation of the dividend program, investment policy, and so on. These details were to be created, and to be changed as need be, by future generations of lawmakers.

What the lawmakers of 1976, in creating the Fund, were trying to avoid was “playing god”. They did not want to try to foretell the future – to dictate future policy. As much as possible, commensurate with the basic task of creating the fund, the architects of the Fund did not want to tie the hands of future generations of lawmakers.”

On average, SJR 13 would reduce by one third the amount of Permanent Fund income annually available for appropriation by the Alaska Legislature. Currently the Legislature appropriates that “third” as shown in the following appropriation from Chapter 60, SLA 2001:

“Sec. 8. ALASKA PERMANENT FUND CORPORATION. (a) . . .

(b) After money is transferred to the dividend fund under (a) of this section, the amount calculated under AS 37.13.145 to offset the effect of inflation on the principal of the Alaska permanent fund is appropriated from the earnings reserve account (AS 37.13.145) to the principal of the Alaska permanent fund.

The 2001 Permanent Fund Corporation Annual Report gives credit to the long running success of this method of appropriation for inflation proofing. On close inspection, the caption for the inflation graphic on page 17 reads, “Inflation has eroded the purchasing power of \$1.00 in 1982 to 48 cents in 2001 . . . — but inflation-proofing has maintained the Fund’s real value”.

Unlike most other state permanent funds, the Alaska Permanent Fund has been inflation proofed for the past 20 Years. Largely “under reported” throughout the 26-year history of the Alaska Permanent Fund is the part played by the Alaska Legislature in increasing Fund principal. Relegated to the “Notes to Financial Statements” on page 38 of the Permanent Fund Corporation’s Annual Report 2001, the principal balance of the Fund at June 30, 2001, was listed by source:

Dedicated State revenues	\$7,070,741,000
Appropriations from the State	6,885,906,000
Inflation-proofing	6,929,350,000
Settlement earnings	161,582,000
Total Principal	\$21,047,579,000

The Constitutional provision dedicating 25% of certain mineral revenues to the Permanent Fund produced a \$7.1 billion Fund principal as of June 30, 2001. But, with the numerous special Legislative appropriations and 12 years of Legislative appropriations

1

for inflation proofing, the Legislature has nearly tripled Fund principal over that funded by the Constitutional dedication of revenue.

The Permanent Fund Corporation Board of Trustees proposal contained in SJR 13 and HJR 15 would repeal existing Legislative authority to appropriate Permanent Fund income established 25 years ago. With the State's Constitutional Budget Reserve Fund approaching "empty" and increased national/state concern with internal security matters, does this Legislature really want to repeal the existing authority to use all Permanent Fund earnings for what ever purpose this, or any future Legislature, determines to be the best public use at the time?

If the existing flexibility to appropriate earnings is to be changed, I would suggest that discussion and resolution of the part Permanent Fund earnings/payout are to play in the annual State budget should run concurrently with deliberation of the Trustees' proposed amendment to imbed inflation proofing of the Permanent Fund in the Constitution. If the 2002 Legislative Session is not the time for deliberation and resolution of the statutory use of all Permanent Fund earnings/payout, consideration of the Trustee's amendment should be postponed to a time when all Permanent Fund earnings/payout can be allocated by statute. The existing statutory system of annual appropriations for, "the amount calculated under AS 37.13.145 to offset the effect of inflation on the principal of the Alaska permanent fund" has done the job well, and can continue to do so.

Thank you very much for providing this opportunity to appear before the Senate State Affairs Committee.

Jay Hogan  
PO Box 21073  
Juneau, Alaska 99802

## THE ALASKA PERMANENT FUND – PERMANENT FOR WHAT PURPOSE?

During the 1976 Legislative Session, four Alaska daily newspapers editorialized on the proposed fund, some more than once.

Anchorage Daily News – Place a check on state spending . . . offer loans to businessmen, builders and fishermen . . . “Most importantly, the permanent fund addresses that day when the oil runs out.”

Fairbanks Daily News-Miner – “What could be more exciting than the prospect of true economic stability for Alaska?” . . . much like a savings account . . . the interest derived would be used to sustain certain state programs that would benefit all Alaskans . . . fund a viable agricultural industry . . . loans to Alaskans to build their own homes . . . boat loans to revitalize a depleted fishing industry . . . and avoid careless state spending.

Southeast Alaska Empire – “What happens if, when Prudhoe runs dry, there isn’t another massive oil strike on state land?” . . . if there is no contingency fund, state government will lead Alaska back to the boom and bust economy we’ve been in since 1867.

Anchorage Times – There are reasons aplenty to set aside some oil income rather than “spend them in an orgy of pork barrel raids on the treasury” . . . “However, sealing up a share of the revenue in a bank account . . . has drawbacks” . . . others suggest reducing state debt, reducing or eliminating the state income tax, or revenue sharing to reduce or eliminate local property taxes.

The Alaska State Chamber of Commerce prepared the 1976 Official Election Pamphlet statement in favor of the Permanent Fund proposition. It read in part:

“Just as a wise and prudent family sets aside money in a savings account for the future, so should Alaska’s state government set aside a rainy day fund to benefit this and future generations of Alaskans. . . .

Today, as the result of anticipated oil and gas revenues, Alaska stands on the brink of unprecedented prosperity. No one, but no one, argues that these non-renewable resources will last but for a few decades. Similarly, no one should fail to recognize that in those years ahead the cost of state government will continue to spiral upwards. Now is the time to ask ourselves the question: ‘when the oil and gas is depleted, where will the funds to feed our giant government come from?’ The answer is: the ‘Permanent Fund’.”

October 22, 1976, an Anchorage Daily News article summed up diverse opinion:

“Nobody knows exactly how the fund will be used; that decision will be made by legislative action in the future. Although the fund is protected against certain kinds of usage, its precise organization and management have been left flexible by designers. . . .

There have been many proposals for possible fund uses. They range from paying direct dividends to Alaskans to using the money to underwrite such vast projects as hydroelectric dams. But, whatever use it is put to, the permanent fund money would have to be a money-maker. Politicians could spend the interest, but never the principle.”

Two days later, in a lengthy article the Anchorage Times detailed diversity:

“Those promoting the permanent fund, including Gov. Jay Hammond, see it as a way of providing development capital to diversify the state’s economy, strengthen

renewable resources – such as fisheries, timber and tourism – and make possible large projects such as dams, which couldn't otherwise be financed.

They also view it as a savings account, to keep some of the state's income from oil and gas out of the general fund so it can't be spent. They point to the \$900 million the state received from the 1969 Prudhoe Bay lease sale, which now is nearly all spent.

Others see the fund as a source of loans for community development, such as home mortgages, small business loans; for power development, ports, utilities, roads, or health, education or social needs, such as day care centers.

Malone [Rep. Hugh Malone, D-Kenai] said the fund could go for all three of those uses. The legislature would decide what per cent of the fund would go to each use.

Other options include reinvesting the earnings in the permanent fund, pledging the earnings as security for state and local bonds, additional revenue sharing, letting earnings flow into the general fund, lower state income taxes, or return dividends as tax credits."

Thus informed, Alaskans went to the polls and voted almost 2 to 1 for the constitutional amendment establishing the Alaska Permanent Fund.

**THE UNIVERSITY OF TEXAS SYSTEM**



**AVAILABLE UNIVERSITY FUND**

**Report to the Legislature and Governor  
Pursuant to Rider No. 4 to Available University Fund  
Appropriations  
S. B. 1, 77<sup>th</sup> Legislature, Regular Session, Page III-71**

December 2001

## **B. AVAILABLE UNIVERSITY FUND**

### **1. RATIONALE FOR DISTRIBUTION FROM PERMANENT UNIVERSITY FUND**

The Texas Constitution, as amended in November 1999 by adoption of Proposition 17, defines the Available University Fund (AUF) as consisting of distributions from the total return on all investment assets of the Permanent University Fund (PUF). The U. T. System Board of Regents adopted a policy at its November 11, 1999, meeting designed to provide the AUF with a stable and predictable stream of distributions over time, as well as to maintain the purchasing power of both the PUF assets and AUF distributions.

The amendment contained in Proposition 17 limits the discretion of the U. T. System Board of Regents to determine the amount of PUF distributions in any given year by stipulating that annual distributions cannot exceed 7% of the average market value of PUF investments. Also, distributions cannot increase year to year if the purchasing power of PUF investments has not been preserved over rolling 10-year periods.

The only exception would be to pay annual debt service on PUF bonds.

The Board of Directors of the University of Texas Investment Management Company (UTIMCO) recommended, and the U. T. System Board of Regents approved, total distributions of \$338,433,636 and \$317,081,112 from the PUF to the AUF for the fiscal years ending August 31, 2002 and 2001, respectively. The fiscal year 2002 distribution is equal to 4.5% of the average market value of PUF assets for the trailing 12 fiscal quarters ended February 28, 2001, as illustrated in Appendix A. The distribution rate of 4.5% satisfies the limitations in the Constitution. On August 9, 2001, the U. T. System Board of Regents set the distribution rate for fiscal year 2003 and beyond at 4.75%.

The PUF distribution for fiscal year 2002 represents a 6.7% increase over the distribution for the fiscal year 2001. Money credited to the AUF is administered by the State Comptroller and, along with other funds of the State, is invested in accordance with State law.

Table 1

<b>THE UNIVERSITY OF TEXAS SYSTEM AVAILABLE UNIVERSITY FUND FY 2000 - FY 2004</b>		
	<b>Actual FY 2000</b>	<b>Actual FY 2001</b>
<b>Income and PUF Distributions</b>		
Divisible with Texas A&M University		
Investment Income and Distributions	\$ 297,562,712	\$ 317,081,112
Surface & Other Income	6,173,996	9,265,625
Expenses of Revenue Bearing Properties	<u>(2,719,540)</u>	<u>--</u>
<b>Net Divisible Income and Distributions</b>	<b>301,017,168</b>	<b>326,346,737</b>
Less: A&M Share (1/3)	<u>(100,339,056)</u>	<u>(108,782,245)</u>
U. T. Share (2/3)	200,678,112	217,564,492
AUF Interest Income	<u>10,034,605</u>	<u>12,381,690</u>
<b>Income and Distributions Available to U. T.</b>	<b><u>210,712,717</u></b>	<b><u>229,946,182</u></b>
<b>Transfers/Expenditures</b>		
Debt Service on PUF Bonds	(132,470,830)	(60,743,924)
U. T. System Administration:		
Administration	(19,759,754)	(24,841,384)
Information Technology & Distance Education	(2,742,142)	(4,348,003)
U. T. Austin:		
Excellence	(88,727,618)	(102,500,000)
System-Wide Technology & Telecommunications	(1,060,000)	(1,060,000)
Building Revenue Bond Reimbursement	(3,385,007)	(3,391,581)
National Center for Educational Accountability	--	--
Sandia National Laboratories Project	<u>--</u>	<u>--</u>
<b>Total Transfers</b>	<b><u>(248,145,351)</u></b>	<b><u>(196,884,892)</u></b>
<b>Net Surplus/(Deficit)</b>	<b><u>\$ (37,432,634)</u></b>	<b><u>\$ 33,061,290</u></b>

Note: FY 2002 Budget and FY 2003-4 Projections are subject to change due to market conditions and unforeseen emergencies or opportunities.

Source: U. T. System Administration Financial Statements, Annual Operating Budget, and projections from the U. T. System Office of Finance.

## **PERMANENT UNIVERSITY FUND**

### **Beneficiaries of the Fund**

The Permanent University Fund (PUF) is a public endowment contributing to the support of institutions of The University of Texas System (UT System) and the Texas A&M University System (A&M System). The Constitution of 1876 established the PUF through the appropriation of land grants previously given to The University of Texas plus one million acres. Additional land grants to the PUF were completed in 1883 with the contribution of another one million acres. Today the PUF contains 2.1 million acres located in 24 counties primarily in West Texas.

### **Responsibility and Management of the Fund**

The State Constitution vests fiduciary responsibility for the PUF with the Board of Regents of The University of Texas System. The Board has entered into a contract with a nonprofit corporation, The University of Texas Investment Management Company (UTIMCO), for UTIMCO to invest funds under the control and management of the Board. UTIMCO may not engage in any business other than investing funds designated by the Board under the contract. Specific investment decisions are handled by the investment staff as well as unaffiliated investment managers who are employed from time to time.

### **Investment Objectives**

The primary investment objective shall be to preserve the purchasing power of PUF assets and annual distributions by earning an average annual total return after inflation of 5.5% over rolling ten-year periods of longer. The PUF's success in meeting its objectives depends upon its ability to generate high returns in periods of low inflation that will offset lower returns generated in years when the capital markets underperform the rate of inflation.

The secondary fund objective is to generate a fund return in excess of the Policy Portfolio benchmark over rolling five-year periods or longer. The Policy Portfolio benchmark will be established by UTIMCO and will be comprised of a blend of asset class indices weighted to reflect Fund asset allocation policy targets.

### **Market Value and Book Value of the PUF**

On December 31, 2001, the market value and book value of the PUF was \$7.2 billion and \$7.4 billion, respectively, exclusive of land acreage.

## PERMANENT UNIVERSITY FUND

**Comparison Summary of Investment in Securities, at Value**  
*August 31, 2001 and 2000*  
*(in thousands)*

	2001	2000
<b>Equity Securities</b>		
Domestic Common Stock	\$ 1,516,996	\$ 1,639,643
Index Funds	1,380,116	1,802,004
Commingled Investments	1,169,366	1,164,205
Limited Partnerships	1,020,811	1,123,614
Foreign Common Stock	227,378	316,210
Other	4,373	10,993
<b>Total Equity Securities</b>	<b>5,319,040</b>	<b>6,056,669</b>
<b>Debt Securities</b>		
U.S. Government Obligations (Direct and Guaranteed)	390,017	529,467
U.S. Government Agencies (Non-Guaranteed)	529,902	326,067
Foreign Government and Provincial Obligations (U.S. Dollar Denominated)	5,397	6,709
Foreign Government and Provincial Obligations (Non-U.S. Dollar Denominated)	109,296	67,141
Municipal and County Bonds	27,844	26,376
Corporate Bonds	504,326	529,309
Foreign Corporate Bonds	20,248	23,202
Commingled Investment	23,281	-
Commercial Paper	5,000	2,601
Other	7,771	7,771
<b>Total Debt Securities</b>	<b>1,623,082</b>	<b>1,518,643</b>
<b>Preferred Stock</b>		
Domestic Preferred Stock	13,120	12,325
Foreign Preferred Stock	1,305	4,060
<b>Total Preferred Stock</b>	<b>14,425</b>	<b>16,385</b>
<b>Convertible Securities</b>	<b>3,709</b>	<b>-</b>
<b>Cash and Cash Equivalents</b>		
Money Markets and Cash Held at State Treasury	887,575	1,039,885
<b>Total Investment in Securities</b>	<b>\$ 7,847,831</b>	<b>\$ 8,631,582</b>

*The accompanying notes are an integral  
part of these financial statements.*

## PERMANENT UNIVERSITY FUND

*Notes to Financial Statements*

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### Note 1 Organization

(A) The Permanent University Fund (PUF) is a state endowment contributing to the support of eligible institutions of The University of Texas System (U.T. System) and the Texas A&M University System (TAMU System). The PUF was established in the Texas Constitution of 1876 through the appropriation of land grants previously given to the University of Texas plus one million acres. Additional land grants to the PUF were completed in 1883 with the contribution of another one million acres. Today, the PUF contains over 2.1 million acres of land located in 24 counties primarily in West Texas (PUF Lands).

PUF Lands produce two streams of income: mineral and surface. Mineral income is contributed to the PUF and surface income is distributed to the Available University Fund (AUF). The investments of the PUF are managed by The University of Texas Investment Management Company (UTIMCO). The PUF Lands are managed by U.T. System administration.

(B) Amendments to the Texas Constitution were approved by voters in a statewide election held on November 2, 1999. The amendments were effective November 29, 1999, and allow for a) distributions to the Available University Fund (AUF) from the "total return" on PUF investments, including income return as well as capital gains (realized and unrealized) and (b) the payment of PUF expenses from PUF assets. Before the effective date of the amendments, the constitutional provisions governing the PUF prohibited the expenditure of corpus, and consequently, gains and losses on sales of securities remained in the PUF. Conversely, the Texas Constitution mandated that all dividend and interest income be distributed to the AUF on an accrual basis. The amendments directed the Board of Regents of U.T. System to establish a distribution policy that provides stable, inflation adjusted annual distributions to the AUF and preserves the real value of the PUF investments over the long term. Accordingly, distributions to the AUF in any given fiscal year are now subject to the following: (1) A minimum amount equal to the amount needed to pay debt service on PUF bonds; (2) No increase from the preceding year (except as necessary to pay debt service on PUF bonds) unless the purchasing power of PUF investments for any rolling 10-year period has been preserved; (3) A maximum amount equal to seven percent of the average net fair market value of PUF assets in any fiscal year, except as necessary to pay debt service on PUF bonds. The PUF distribution to the AUF for the year ending August 31, 2002, in the amount of \$338,433,636 was paid September 4, 2001.

(C) The accompanying financial statements report the investment in securities of the PUF, including the assets, liabilities and investment income. Beginning November 29, 1999, expenses related to the PUF's investments and PUF Lands are also included in accordance with the constitutional amendments. The PUF Lands are not included in this report.

These financial statements follow the form and content of investment company financial statements and related disclosures in accordance with accounting principles generally accepted in the United States of America. The principles followed will differ from the principles applied in governmental and fund accounting. The Schedule of Changes in Cost of Investments and Investment Income has been prepared for the purpose of complying with the reporting requirement of Section 66.05 of the Texas Education Code.

The annual combined financial statements of U.T. System are prepared in accordance with Texas Comptroller of Public Accounts' Annual Financial Reporting Requirements and include information related to the PUF. The accompanying financial statements may differ in presentation from

Wyoming has just begun to inflation proof State Permanent Funds. During the 2000 legislative session, the Wyoming State Treasurer, " was instrumental in getting legislative changes passed that authorized 'returning' a portion of income to the corpus of the permanent land funds to compensate for inflation. The amount to be returned is based on the beginning balance of each permanent land fund account multiplied by a portion of that year's inflation rate (this year that portion was 5 percent of the inflation rate). The first such transfer was made at the end of FY00 and totaled \$1,390,322." By statute, the inflation rate "multiplier" is increased 5% per year to reach "100% of the inflation rate" over a 20-year period. [Wyoming State Government Annual Report 2000, page 3.20]

Phone conversations with Treasurer's Office staff indicate that the recently enacted inflation protection statute is currently under review and that a new spending policy proposal will be placed before the Legislature during the 2002 session. The new plan would replace incremental increases in inflation proofing with the adoption of an "annual spending policy" authorizing "an amount equal to eight percent (8%) of the previous five (5) year average market value of the trust fund, [the permanent Wyoming mineral trust fund and the common school account within the permanent land fund] calculated from the first day of the fiscal year". The 8% of fund value payout would be decreased by .375% per year until fiscal year 2010 when it would reach and remain at "5% percent of the previous five (5) year average market value of [the trust fund or the school account]".

With either system, Wyoming will use a multi-year transition to reach the goal of full inflation proofing. The transition will give the State time to phase inflation proofing into the budget and time to hopefully increase the annual income from the mineral trust fund and the common school account. Stable annual income from both funds is necessary to maintain the current level of annual operating and capital programs.

## Keeping Pace With Inflation

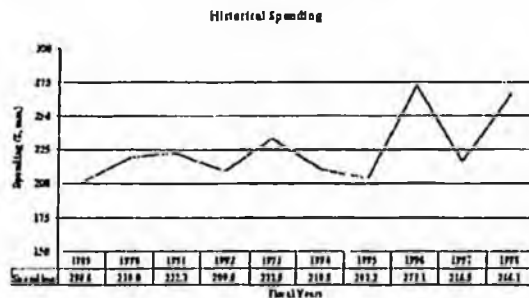
The State of Wyoming is considering changes to the investment programs implemented for the Permanent Funds that should enhance the spending and stability of spending made available from the funds and allow the Fund's assets to keep better pace with inflation.

The State Loan and Investment Board oversees the investment of the Permanent Funds. They follow an Investment Policy to guide the selection of managers and use of other service providers, set and monitor investment performance expectations, and to set asset mix policies. Every quarter the Board receives an Investment Performance Report from the State's Investment Consultant (RVK) to ensure the State's investments are structured and performing per the requirements of the Investment Policy. A Select Committee on Capital and Investments regularly meets to become familiar with the State's investments to review and consider any necessary legislation.

In past years, spending generated by investment earnings (income) on the Permanent Funds varied year to year directly with investment income. In addition, the State's Permanent Fund Investments were comprised primarily of bonds and cash investments which generally do not produce enough return in excess of spending to grow the assets to keep up with inflation.

The following exhibit illustrates the volatility in spending.

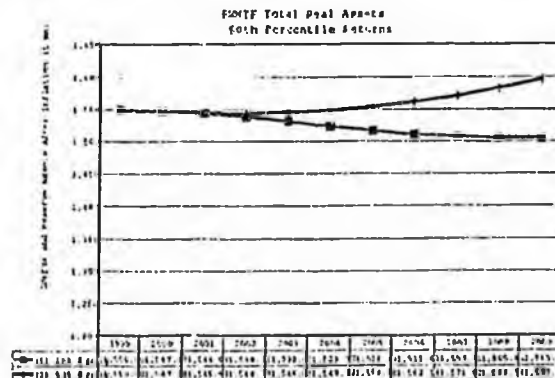
### Historical Spending



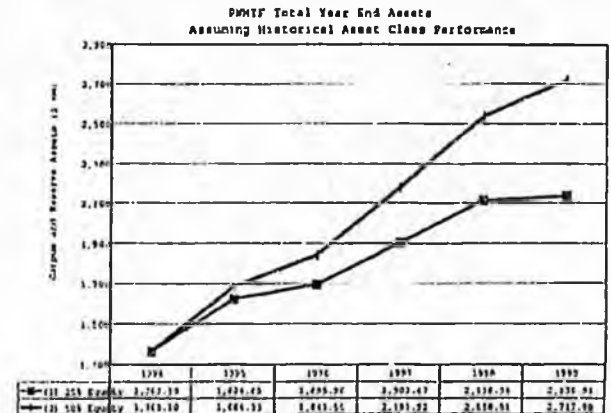
By constitutional definition funds available for spending consist of interest, income, dividend income and realized capital gains. Funds available for spending in the past have varied quite dramatically over time and have been expended instead of being used to help protect the Permanent Funds from the ravages of inflation.

In 1996 the State Land and Investment Board approved participation in stock investments for the Permanent Funds for purposes of enhancing return. The basis for doing so was grounded in the fundamental belief that stocks would outperform bonds over a long period of time. R.V. Kuhns & Associates completed an analysis for the State's Loan and Investment Board that illustrated the impact of adding stocks to the then current fixed income investments. It was assumed that stocks would offer a 9-10% return while bonds would only offer 6-6.50%. It was decided that up to 25% of the portfolio would be placed in stocks and because of the stock market's volatility, the 25% position would be achieved gradually over approximately a two-year period.

Even with up to 25% of the assets invested in equities, RVK advised that the real value of assets would never increase with the current spending policy. The next graph illustrates the expected growth in the Permanent Fund assets after accounting for inflation. The exhibit shows changes in assets given the current equity maximums of 25% and 50% equity. All of the scenarios assume maintaining spending at current levels plus an additional \$20 million. The graph demonstrates that if the projected spending is maintained, the value of the assets will fall in real terms except if approximately 50% of the assets are placed in equities. For simplicity, the Permanent Mineral Trust Fund is represented. Similar results can also be found for the Common School Fund.



If the State had implemented these changes 5 years ago, Permanent Fund Assets would currently be much larger.



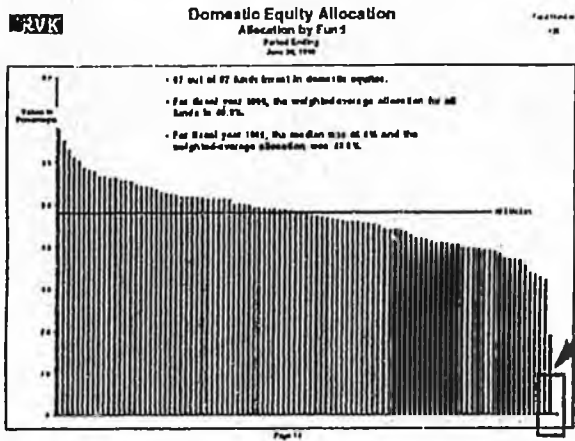
The current investment environment has produced challenges in supporting spending at current levels due to the general decrease in interest rates that has occurred in the last decade. In addition, dividend income has decreased for the average stock levels of 1.0% and 1.5%.

Facing the challenges of maintaining/increasing spending and the desire to inflation proof the Permanent Fund assets; the State is considering making a change to increase the 25% equity to approximately 50%. Because the stock market has been historically volatile, R.V. Kuhns and Associates pointed out that in some years it may be possible that the amount planned for spending may not be earned by the portfolio.

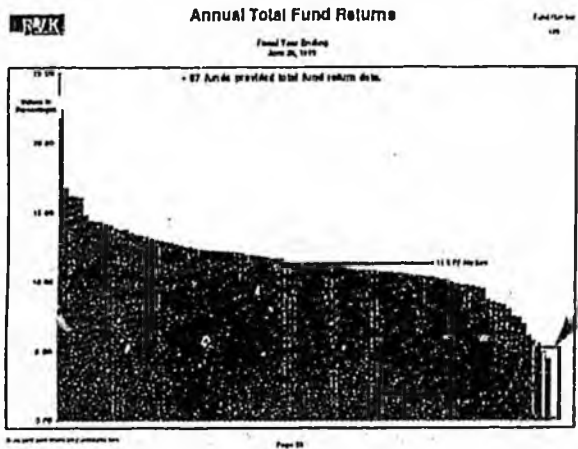
In light of this and the Constitutional requirement to disallow invasion of the corpus or spend unrealized losses, a reserve account will be established for each Permanent Fund. These reserve accounts will be used to "bank" actual returns in excess of spending policy for purposes of supplementing more lean years when investment income is insufficient to meet spending targets.

If the reserve accounts reach a size nearing a large proportion of a year's spending target, any excess above that level will revert to the principal base.

The proposed new equity level of 50% for the Permanent Funds closely resemble the mix of investments of other long-term oriented portfolios. An example within the state is the Wyoming State Retirement Fund, which has a current stock exposure of approximately 57%. In the following exhibit the State's current investment program is listed as one of the equity markets of a universe of large public funds. The State's equity allocation is represented in yellow (highlighted in blue).



The next exhibit demonstrates that having a greater equity exposure benefited the universe funds' investment returns last year. The State's annual return is represented in yellow, 2nd bar from the right indicated by the blue arrow.



In another universe comparison, the Permanent Funds current equity participation is also very small compared to a national collection of endowments and foundations. As of June 30, 1999, the average fund had an equity allocation of 63% compared to less than 10% for the State.

House Bill 21 has been drafted to allow Permanent Fund assets to grow. It is expected that the change in the investment program will enable the goals of increased spending to help address the projected shortfall in the next biennium.

With these goals in mind, it is highly recommended that the spending policy House Bill 21 be passed to assist The State of Wyoming meet its current and future fiscal needs.

## THE STATE OF WYOMING

### Permanent Fund Spending Policy



**ANNUAL REPORT  
of the Treasurer**

**of the  
State of Wyoming**



For the Period  
July 1, 2000 through June 30, 2001

*Cynthia M. Lummis, State Treasurer*  
*Sharon Garland, Deputy State Treasurer*  
*Glenn Shaffer, Chief Investment Officer*

**INCOME EARNINGS RECOGNIZED ON INVESTMENTS**  
**During Fiscal Year 2001**

	REGULAR INVESTMENT INCOME	CASH POOL INTEREST 07/01 - 06/30	TOTAL INVESTMENT INCOME RECEIVED
Water Development	\$6,954,082.27	\$325,460.14	\$7,279,542.41
Worker's Compensation	17,099,416.66	5,006,026.68	\$22,105,443.34
Tobacco Settlement Trust Fund	1,606,993.77	160,751.51	\$1,767,745.28
Miners' Hospital Permanent Land Fund	0.00	1,313,113.78	\$1,313,113.78
Public Buildings @ Cap Permanent Land Fund *	0.00	31,399.23	\$31,399.23
Fish Hatchery Permanent Land Fund	0.00	12,144.00	\$12,144.00
Common School Permanent Land Fund	53,661,578.00	5,906,992.19	\$59,568,570.19
Common School II	0.00	289,101.40	\$289,101.40
D.D. & B. Permanent Land Fund *	0.00	38,409.01	\$38,409.01
Carey Act Permanent Land Fund *	0.00	13,621.29	\$13,621.29
Omnibus Permanent Land Fund *	0.00	222,099.17	\$222,099.17
State Hospital Permanent Land Fund *	0.00	61,201.60	\$61,201.60
State Training School Permanent Land Fund *	0.00	14,111.42	\$14,111.42
Penitentiary Permanent Land Fund *	0.00	86,156.96	\$86,156.96
Agriculture College Permanent Land Fund	0.00	312,604.29	\$312,604.29
University Permanent Land Fund	0.00	785,987.70	\$785,987.70
Permanent Mineral Trust Fund	91,480,232.74	9,965,840.49	\$101,446,073.23
Other Funds	0.00	71,212,415.65	\$71,212,415.65
	<u>\$170,802,303.44</u>	<u>\$95,757,436.51</u>	<u>\$266,559,739.95</u>
<u>Total Income - Treasurer's Investments</u>		<u>\$266,559,739.95</u>	

Note: Realized yield for all state investments is 6.20% for FY01. This is an approximation based on income recognized versus end-of-month investments at current amortized cost, and includes investment managers but excludes WYO-STAR.

\* All or a portion of the investment income from these funds ultimately goes to the General Fund and is included in the \$30,046,858.48 General Fund Income.

**INVESTMENT ACCOUNT BALANCES**  
**As Of June 30, 2001**

<u>FUND/ACCOUNT NAME</u>	<u>CASH &amp; RECEIVABLES</u>	<u>INVESTMENTS</u>	<u>NET DISC/PERM PURCHASED</u>	<u>ACCOUNT BALANCE (Corpus)</u>
Miner's Hospital	\$22,991,625.14			\$22,991,625.14
Public Buildings At Capitol	75,405.45			75,405.45
Fish Hatchery	218,235.96			218,235.96
Common School	165,166,812.69 *	\$760,379,527.04 ***		925,546,339.73
Common School II	5,000,000.00			5,000,000.00
D.D. & B. Asylum	671,097.20			671,097.20
Carey Act	335,130.33			335,130.33
Omnibus	1,506,753.39			1,506,753.39
State Hospital	986,726.80			986,726.80
State Training School	301,044.60			301,044.60
Penitentiary	658,754.46			658,754.46
Agricultural College	5,489,106.54			5,489,106.54
University	13,671,032.56			13,671,032.56
<b>Subtotal-Permanent Land Fund</b>	<b>217,071,725.12</b>	<b>760,379,527.04</b>		<b>977,451,252.16</b>
Mineral Trust Fund	282,423,892.59	1,557,268,027.92 ***	(\$26,195.73)	1,839,665,724.78
Tobacco Settlement Fund	973,071.85	33,995,548.79		34,968,620.64
<b>Subtotal-All Permanent Funds</b>	<b>500,468,689.56</b>	<b>2,351,643,103.75</b>	<b>(26,195.73)</b>	<b>2,852,085,597.58</b>
Worker's Compensation	71,107,981.29	284,262,140.15 ***		355,370,121.44
Water Development	90,599,797.02 **	65,587,938.54 ***		156,187,735.56
<b>TOTAL</b>	<b>\$662,176,467.87</b>	<b>\$2,701,493,182.44</b>	<b>(\$26,195.73)</b>	<b>\$3,363,643,454.58</b>

\* Does not include debt service deposit (\$57,984,859.00).

\*\* Includes loans receivable.

\*\*\* All or a portion of these funds are now invested by Investment Managers, rather than directly invested by the State Treasurer.

"Cash and Receivables" is actually included with, and part of, the State Agency Pool investments. This investment Pool represents the cash balance of all funds and accounts for which specific investments have not been made. The State Agency Pool investments are not summarized in this report.

**PERMANENT WYOMING MINERAL TRUST FUND: CORPUS**

	<u>JUNE 30, 2000</u> <u>CORPUS BALANCE</u>	<u>REVENUE</u>	<u>JUNE 30, 2001</u> <u>CORPUS BALANCE</u>
Beginning Balance	\$1,629,332,131.71		
Severance Tax			
Coal		\$16,499,375.51	
Stripper Oil		2,995,108.83	
Oil		16,833,866.22	
Gas		71,344,950.01	
Condensate-Gas		1,485,710.03	
Tertiary-Oil		1,173,694.43	
Wildcat-Oil		888.04	
From General Fund per 2001 Ch 139 Sec300(h)		<u>100,000,000.00</u>	
<b>TOTAL REVENUE ADDED TO CORPUS</b>		<u><u>\$210,333,593.07</u></u>	
			<u>\$1,839,665,724.78</u>

REAL PER CAPITA APPROPRIATIONS, FISCAL 1979-2000

Fiscal Year	July 1 Alaska Population	June Anchorage CPI-U	General Fund Operating Appropriations			General Fund Total Appropriations			Permanent Fund Program Appropriations	
			Operating (millions)	Per Capita Operating	Real Per Capita Operating (FY 1999 \$)	Total (millions)	Per Capita Total	Real Per Capita Total (FY 1999 \$)	PFD Program Cost (millions)	Real Per Capita Total Plus PFD (FY 1999 \$)
1979	413,700	73.9	803	1,942	3,844	1,083	2,617	5,179		5,179
1980	419,800	81.7	924	2,200	3,939	1,160	2,764	4,948		4,948
1981	434,300	89.0	1,314	3,024	4,970	2,587	5,957	9,789		9,789
1982	464,300	95.6	1,661	3,576	5,472	3,445	7,420	11,353		11,353
1983	499,100	97.8	1,829	3,664	5,479	2,848	5,706	8,533	219	9,189
1984	524,000	102.7	1,868	3,565	5,076	3,087	5,891	8,390	175	8,865
1985	543,900	104.7	2,005	3,686	5,149	3,662	6,733	9,405	217	9,963
1986	550,700	108.3	1,998	3,628	4,900	2,832	5,142	6,944	303	7,687
1987	541,300	108.3	1,715	3,169	4,280	2,398	4,430	5,982	391	6,958
1988	535,000	108.4	1,789	3,344	4,512	2,255	4,216	5,688	424	6,757
1989	538,900	110.9	1,975	3,664	4,832	2,379	4,414	5,821	460	6,947
1990	553,171	116.9	2,009	3,632	4,544	2,441	4,413	5,522	482	6,612
1991	569,063	123.3	2,167	3,809	4,518	2,555	4,490	5,326	491	6,349
1992	586,684	127.3	2,195	3,742	4,299	2,772	4,724	5,428	488	6,383
1993	596,808	131.5	2,197	3,682	4,095	2,705	4,532	5,041	525	6,019
1994	600,765	134.3	2,248	3,742	4,075	3,201	5,328	5,803	558	6,814
1995	601,646	138.2	2,242	3,726	3,943	2,470	4,106	4,345	565	5,339
1996	604,966	141.8	2,192	3,623	3,737	2,419	3,999	4,125	643	5,221
1997	609,311	144.1	2,206	3,621	3,675	2,432	3,391	4,051	749	5,299
1998	621,400	146.3	2,169	3,491	3,491	2,355	3,730	3,790	893	5,227
1999	633,729	148.9	2,172	3,427	3,367	2,324	3,667	3,602	999	5,151
2000	646,302	151.6	2,200	3,404	3,285	2,304	3,565	3,440	1,078	5,049

Population estimates from Department of Labor as of July 1 (beginning of each fiscal year).

Population for FY 99 and FY 2000 estimated by OMB.

Inflation assumptions for FY 99 and FY 2000 taken from DOR Revenue Sources book (reference case).

FY 2000 spending based on Governor's proposed budget and March Permanent Fund projections.

Total Appropriations do not include special PF appropriations.

OMB/BP

5/1/01 16:07

Brad Pierce



# LAWS OF ALASKA

1980

Source

SCS CSHB 509 (Rules)

Chapter No.

35

## AN ACT

Making a special appropriation to the Alaska permanent fund; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1, LINE 9

Approved by the Governor: May 21, 1980  
Actual Effective Date: July 1, 1980

Chapter 35

## AN ACT

Making a special appropriation to the Alaska permanent fund; and providing for an effective date.

\* Section 1. The sum of \$900,000,000 is appropriated from the general fund to the Alaska permanent fund (art. IX, sec. 15, Constitution of the State of Alaska).

\* Sec. 2. Beginning July 1, 1980, the commissioner of revenue shall make monthly deposits to the Alaska permanent fund of the appropriation made by this Act. A monthly deposit to the Alaska permanent fund shall be in an amount determined by the commissioner of revenue to be in excess of the general fund revenues necessary to finance state government operation for the month in which the deposit is made.

\* Sec. 3. This Act takes effect July 1, 1980.



# LAWS OF ALASKA

1981

Source

FCCSHB 1

Chapter No.

61

## AN ACT

Making a special appropriation to the Alaska permanent fund, and making appropriations to the Department of Administration and the Department of Community and Regional Affairs for aid to municipalities and unincorporated communities; and providing for an effective date.

\* Section 1. The sum of \$1,800,000,000 is appropriated from the general fund to the Alaska permanent fund (art. IX, sec. 15, Constitution of the State of Alaska, AS 37.13.010).

\* Sec. 2. Beginning July 1, 1981, the commissioner of revenue shall make monthly deposits to the Alaska permanent fund of the appropriation made by sec. 1 of this Act. A monthly deposit to the Alaska permanent fund shall be in an amount determined by the commissioner of revenue to be in excess of the general fund revenues necessary to finance state government operation for the month in which the deposit is made.

\* Sec. 3. The sum of \$380,000,000 is appropriated from the general fund to the Department of Administration for payment of entitlements to qualified municipalities for the fiscal year ending June 30, 1982, in accordance with legislation authorizing the payments.

\* Sec. 4. The sum of \$24,987,000 is appropriated from the general fund to the Department of Community and Regional Affairs for payment of entitlements to unincorporated communities in the unorganized borough for the fiscal year ending June 30, 1982, in accordance with legislation authorizing

## Chapter 61

1 the payments.

2 \* Sec. 5. The sum of \$73,800 is appropriated from the general fund to  
3 the Department of Administration for costs of administering the entitlements  
4 for which an appropriation is made by sec. 3 of this Act.

5 \* Sec. 6. The sum of \$252,800 is appropriated from the general fund to  
6 the Department of Community and Regional Affairs for costs of administering  
7 the entitlements for which an appropriation is made by sec. 4 of this Act.

8 \* Sec. 7. The appropriation made by sec. 1 of this Act is not a one-year  
9 appropriation and it does not lapse under AS 37.25.010.

10 \* Sec. 8. This Act takes effect on the effective date of a version of  
11 Senate Bill No. 168 entitled "An Act relating to state assistance for  
12 municipalities and unincorporated communities; and providing for an effective  
13 date."

**Range of total 5% payout**

	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>
Top Quartile	1,343.0	1,397.0	1,439.0	1,496.0	1,571.0	1,668.0
Median	1,313.0	1,330.0	1,323.0	1,368.0	1,420.0	1,464.0
Bottom Quartile	1,260.0	1,007.0	984.0	1,031.0	1,033.0	1,020.0

**Range of dividend distribution (under current law)**

	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>
Top Quartile	930.0	945.0	953.0	1,086.0	1,270.0	1,341.0
Median	853.0	779.0	732.0	807.0	929.0	1,039.0
Bottom Quartile	778.0	620.0	509.0	551.0	570.0	602.0

**Range of residual income**

	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>
Top Quartile	432.0	497.0	545.0	519.0	452.0	417.0
Median	391.0	418.0	438.0	390.0	318.0	272.0
Bottom Quartile	331.0	255.0	265.0	203.0	111.0	23.0

**Range of dividend distribution (under POMV version at 40%)**

	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>
Top Quartile	537.2	558.8	575.6	598.4	628.4	667.2
Median	525.2	532.0	529.2	547.2	568.0	585.6
Bottom Quartile	504.0	402.8	393.6	412.4	413.2	408.0

**Range of Residual Income**

	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>
Top Quartile	805.8	838.2	863.4	897.6	942.6	1,000.8
Median	787.8	798.0	793.8	820.8	852.0	878.4
Bottom Quartile	756.0	604.2	590.4	618.6	619.8	612.0

**Range of dividend distribution (under POMV version at 80%)**

	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>
Top Quartile	1,074.4	1,117.6	1,151.2	1,196.8	1,256.8	1,334.4
Median	1,050.4	1,064.0	1,058.4	1,094.4	1,136.0	1,171.2
Bottom Quartile	1,008.0	805.6	787.2	824.8	826.4	816.0

**Range of Residual Income**

	<u>FY03</u>	<u>FY04</u>	<u>FY05</u>	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>
Top Quartile	268.6	279.4	287.8	299.2	314.2	333.6
Median	262.6	266.0	264.6	273.6	284.0	292.8
Bottom Quartile	252.0	201.4	196.8	206.2	206.6	204.0

Range of **total 5% payout** (in millions)

	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08
Top quartile	\$1,343	\$1,397	\$1,439	\$1,496	\$1,571	\$1,668
<b>Median</b>	\$1,313	\$1,330	\$1,323	\$1,368	\$1,420	\$1,464
Bottom quartile	\$1,260	\$1,007	\$984	\$1,031	\$1,033	\$1,020

Range of **dividend distribution** (in millions)

Top quartile	\$930	\$945	\$953	\$1,086	\$1,270	\$1,341
<b>Median</b>	\$853	\$779	\$732	\$807	\$929	\$1,039
Bottom quartile	\$778	\$620	\$509	\$551	\$570	\$602

Range of **residual income** (in millions)

Top quartile	\$432	\$497	\$545	\$519	\$452	\$417
<b>Median</b>	\$391	\$418	\$438	\$390	\$318	\$272
Bottom quartile	\$331	\$255	\$265	\$203	\$111	\$23

# SJR 13 Projections

Submitted to Senate State Affairs Committee 2/21/02

## Assumptions

- Legislative passage and public approval of SJR 13
- Distribution of full 5% of total Fund market value
- Dividend: statutory formula
- Inflation-proofing: statutory formula
- Current APFC asset allocation
- Oil revenue: DOR Fall 2001 forecast
- Actual Fund data through December 2001
- 2002 Callan Associates Inc. capital market assumptions



# MEMORANDUM

# State of Alaska

TO: Bruce M. Botelho  
Deputy Commissioner, Taxation  
Department of Revenue

DATE: November 8, 1984

FILE NO: 366-605-84

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch  
Attorney General

SUBJECT: Permanent fund  
interest income

By: *Virginia B. Ragle*  
Virginia B. Ragle  
Assistant Attorney General  
Governmental Affairs-Juneau

You have requested an opinion concerning interest earned on funds in or owed to the permanent fund dividend account. This memorandum confirms oral advice given on September 25, 1984. Your questions and our advice are as follows:

1. How should the Department of Revenue handle interest earned on funds transferred to the dividend fund by the permanent fund? The interest should be deposited in the general fund.

AS 43.23.045 establishes the dividend fund, and provides that "each year the commissioner shall transfer to the dividend fund 50 percent of the income of the Alaska permanent fund earned during the fiscal year ending on June 30 of the current year and available for distribution." AS 43.23.045(b). The commissioner is required to invest money in the fund in the same manner as surplus funds of the state are invested under AS 37.-10.070. AS 43.23.045(a). The commissioner of revenue is required to determine the amount of the dividend each year by:

(1) determining the amount of income of the Alaska permanent fund transferred to the dividend fund under AS 34.23.045(b) during the current year;

(2) determining the number of individuals eligible to receive a dividend payment for the current year; and

(3) dividing the amount determined in (1) of this section by the amount determined in (2) of this section.

AS 43.23.025. No provision is made for inclusion in the dividend of interest earned on money transferred to the dividend fund. No appropriation of that interest was made in any of the appropriations for dividend payments in 1983 or in 1984. Sec. 32, Ch.

107, SLA 1983, p. 14; ch. 44, SLA 1984; secs. 14, 15, Ch. 122, SLA 1984. The interest is unappropriated state revenue which should be deposited by the Department of Revenue in the state treasury and credited to the general fund. AS 37.10.060.

2. Should interest earned on money transferred to the dividend account in 1982 and before be paid with future dividends, retained in the dividend account, lapse into the general fund, or be provided for in some other way? The interest should be credited to the general fund.

A review of the history of legislation and litigation concerning permanent fund dividends leads to the conclusion that interest earned on money transferred to the dividend account during and before 1982 should be credited to the general fund. In 1980, the legislature enacted AS 43.23, establishing a permanent fund dividend program under which the amount of the dividend was based on accumulated years of residency in the state after January 1, 1959. AS 43.23.050 established the dividend fund into which 50 percent of the available earnings of the permanent fund were to be transferred annually. That section provided that "[m]oney in the dividend fund and any interest earned from investment of money in the dividend fund shall be used to pay permanent fund dividends ...." AS 43.23.050(a)(emphasis added). No dividend distribution ever occurred under the terms of the program as enacted in 1980. The constitutionality of the provisions under which dividends accrued based on years of residency before enactment of the statute was immediately challenged in Zobel v. Williams, 457 U.S. 55 (1982), rev'g 619 P.2d 448 (Alaska 1980), and the distribution of dividends was held in abeyance pending the resolution of the Zobel's appeal to the U.S. Supreme Court from the Alaska Supreme Court's ruling that the provisions were constitutional.

In 1982, the governor introduced legislation that provided several options for future handling of the dividend program, depending on the Court's resolution of the constitutional issue. The Supreme Court's decision indicated that AS 43.23.010 was invalid because determination of the amount of the dividend by accumulated years of residency was unconstitutional, regardless of whether the years were accumulated before or after 1979. This triggered sec. 1 of ch. 102, SLA 1982, which established a dividend program without distinctions based on length of residency in the state, and sec. 22 of ch. 102, SLA 1982, which repealed AS 43.23.010 -- 43.23.100. Sec. 28, Ch. 102, SLA 1982.

Under the new dividend program, the dividend fund was established by AS 43.23.045. The language of that section is

Bruce M. Botelho  
Deputy Commissioner, Taxation  
Department of Revenue

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similar to the repealed provisions of AS 43.23.050, but no provision is made for use of interest earned by the fund for payment of dividends. Although early drafts of AS 43.23.045 included the language "interest earned from investment of money in the dividend fund shall be used to pay permanent fund dividends . . .," that language was deleted before SB 842 was introduced. As the bill made its way through the legislature, the provision appeared in one committee substitute (CSSB 842(Fin), Apr. 12, 1982), but it was deleted from the final version. The bill file for SB 842 (our file 388-130-82) reveals that, during the drafting stage, questions were raised about the propriety of a statutory provision dedicating interest earned on investment of the fund to payment of dividends. Such a provision could violate the prohibition against dedication of funds contained in article IX, section 7 of the Alaska Constitution. 1/ The repeal of the provisions in AS 43.23.050 that dedicated interest earned by the dividend fund to payment of dividends removed a possible avenue of constitutional attack against a program that had already been held up by litigation on constitutional grounds for over two years.

Once the legislature repealed AS 43.23.050 and replaced it with provisions for a dividend account that did not include the dedication of interest earned on investment of the fund for payment of dividends, any authority to use the accrued interest for that purpose ended. 2/ The interest became general, unappropriated state revenue which should be accounted for in the general fund.

3. How should interest on the amount underpaid to the dividend fund for the 1983 dividend be handled? The interest should remain in the undisributed income account.

The amount available for payment of the 1983 dividend was underestimated. An additional \$19,855,000 should have been included with the \$179,020,000 that was appropriated by the legislature for deposit in the dividend account for payment of the

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1/ Application of Alaska Constitution article IX, section 7 to dedications of interest generated by specific funds was addressed later in 1982 in a formal opinion of the attorney general. 1982 Op. Att'y Gen. No. 13 at 14-18 (Nov. 30) (attached).

2/ Our advice does not conflict with the general savings clause of AS 01.10.100, since no vested right was extinguished by the repeal. See Bidwell v. Schelle, 335 P.2d 584 (Alaska 1960); see generally C. Sands, Sutherland Statutory Construction ch. 23 (4th ed. 1973).

Bruce M. Botelho  
Deputy Commissioner, Taxation  
Department of Revenue

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1983 dividends. Sec. 32, ch. 107, SLA 1983. In 1984, the legislature dealt with the \$19,855,000 by appropriating \$11,584,000 for 1983 dividends for late filers with an additional \$284,800 for administrative costs (secs. 2 and 3, ch. 44, SLA 1984) and \$7,985,700 for inclusion in the 1984 dividend (sec. 15, ch. 122, SLA 1984). Until it was appropriated, the \$19,855,000 remained in the permanent fund's undistributed income account earning interest, and it was noted as a contingent liability in the Alaska Permanent Fund Corporation's 1983 annual report and financial statements. That interest income should remain in the undistributed income account in accordance with AS 37.13.145.

We note that this year's appropriation of permanent fund income to the dividend account is stated in general terms as follows:

The income of the Alaska permanent fund allocated annually to pay permanent fund dividends as provided in AS 43.23.045(b) is appropriated to the dividend fund (AS 43.23.045(a)) for the payment of the 1984 permanent fund dividend and administrative costs.

Sec. 14, ch. 122, SLA 1984. The phrasing of this appropriation in general terms so that the amount is ascertainable by a simple mathematic formula will eliminate the confusion caused by the appropriation of a specific but incorrect amount in 1983.

Neither the statute nor the appropriation makes reference to an exact date upon which the commissioner of revenue must transfer the money from the permanent fund to the dividend account under AS 43.23.045(b). The department may adopt regulations under the general regulatory authority provided by AS 44.-17.030 to effectuate the transfer.

VBR/pjg

Enc.

cc: Peter Bushr, Comptroller  
Alaska Permanent Fund Corporation

"A Chairman's Retrospect"

In looking back at my second and last year as Chairman of the Trustees, I am pleased to report that nearly all we hoped for was done, and more than many thought possible.

After more than a year of seminars and work sessions, your Trustees and the Special Liaison Committee of the Legislature, chaired by Senator Arliss Sturgulewski, were able to reach substantial agreement on recommendations for limited changes. Most of these emerged in the Permanent Fund Act of 1982.

By this Act, a majority of the Trustees (four of six) will be appointed from the public and for terms of four years instead of three - to reduce the effects of a change in state administration. Our investment list was modernized so as to be more diverse and to better perform against inflation by adding pooled income property investments, other commercial real estate, common stocks, and deposits of U.S. dollars held off-shore. Most importantly, the Permanent Fund is directed to return to principal that portion of income, after expenses and the payment of dividends, needed to protect the buying power of the Fund's principal and income. This straightforward action to meet inflation gives us a permanent fund in the truest sense. This action has not been fully taken by some famous private investment funds and has been done less often still by public bodies.

With the approval of two budget measures, the Permanent Fund has won the means to have staff and managers of its own choosing. This is necessary because the Trustees are held responsible for all that is done in their name. However, the standard controls over the Fund's activities will continue. The Fund is gaining a needed independence from politics as usual while giving a proper accounting to elected officials.

In this latter regard I very much hope that something like the Special Liaison Committee for the Permanent Fund will always have a place at Trustee meetings. I hope, too, that the present good faith between the two groups will be preserved.

The success of the past year is owed to the many Alaskans who felt a personal involvement in fixing the goals of the Fund and gave their support. A continuing involvement is vital because the proper management and direction of the Fund is an on-going affair. The basic concept of the Fund, like liberty, must ever be vigilantly defended and guarded. It will perform to the best interests of all Alaskans to the extent that those responsible take the necessary time and interest to make it work.

I deeply appreciate the opportunity of having served as a Trustee during this formative period. My personal concern for the Fund will remain down the years.



Elmer Rasmuson  
Chairman  
Board of Trustees

## Statements of changes in principal and earnings reserve

Years ended June 30,	2001	2000
<b>Principal</b>		
Balance, beginning of year	\$ 20,014,648,000	19,000,909,000
Dedicated state revenues	339,315,000	310,488,000
State transfer from earnings reserve	—	250,000,000
Inflation-proofing	685,929,000	422,920,000
Settlement earnings	7,687,000	30,331,000
<b>Balance, end of year</b>	<b>\$ 21,047,579,000</b>	<b>20,014,648,000</b>
<b>Earnings reserve</b>		
Balance, beginning of year	\$ 6,501,263,000	6,131,203,000
Appropriation to other state agencies	(3,843,000)	(3,014,000)
State transfer from earnings reserve	—	(250,000,000)
Inflation-proofing	(685,929,000)	(422,920,000)
Settlement earnings	(7,687,000)	(30,331,000)
Dividends	(1,112,601,000)	(1,172,451,000)
Net income (loss)	(923,892,000)	2,248,776,000
<b>Balance, end of year</b>	<b>\$ 3,767,311,000</b>	<b>6,501,263,000</b>
<b>Total</b>		
Balance, beginning of year	\$ 26,515,911,000	25,132,112,000
Dedicated state revenues	339,315,000	310,488,000
Appropriation to other state agencies	(3,843,000)	(3,014,000)
Dividends	(1,112,601,000)	(1,172,451,000)
Net income (loss)	(923,892,000)	2,248,776,000
<b>Balance, end of year</b>	<b>\$ 24,814,890,000</b>	<b>26,515,911,000</b>
<b>Earnings reserve components</b>		
Unrealized earnings reserve	\$ 1,383,576,000	3,528,804,000
Remaining earnings reserve	2,383,735,000	2,972,459,000
<b>Total earnings reserve</b>	<b>\$ 3,767,311,000</b>	<b>6,501,263,000</b>

# 16th Legislature Considered 59 Permanent Fund Bills

During the 16th Legislature, there were a total of 59 bills and resolutions introduced dealing with the Permanent Fund. In the Second Session, six of these bills and one resolution passed both the House of Representatives and the Senate and went to Governor Cowper for his signature.

**HB 500 (Chapter 209, SLA 1990):** This is the State's fiscal 1991 budget. It included:

\$487,000,000 appropriated from the income of the Permanent Fund to the dividend fund for the payment of 1991 dividends and administrative and associated costs.

\$429,000,000 appropriated from the fiscal 1990 income of the Permanent Fund to principal to offset the effect of inflation.

\$25,000,000 appropriated from the earnings reserve account of the Permanent Fund to principal to offset the effect of inflation. This was the first year in which current-year income — after the payment of dividends — was insufficient to fully offset the effect of inflation.

\$267,000,000 of dedicated oil revenues appropriated to the principal of the Permanent Fund.

Note that this year, for the first time, both inflation-proofing and dedicated oil revenues were appropriated in the budget bill; in prior years, they have been appropriated by simple force of statute.

Also appropriated to Permanent Fund principal, as a contingency, is any interest earned during fiscal year 1991 on revenue from the sources set out in AS 37.13.010 while the revenue is held in trust, escrow, or otherwise before receipt of the revenue by the state.

\$150,000,000 appropriated from the General Fund to the principal of the Permanent Fund (vetoed by the governor).

\$3,500,000 appropriated from the earnings reserve account of the Permanent Fund to the Corporation to pay to the Department of Law 25% of the Department's legal costs relating to the North Slope royalty case (State v. Amerada Hess, et al.) and the Dinkum Sands case (United States v. Alaska).

\$14,414,800 appropriated from Corporation receipts to the Alaska Permanent Fund Corporation for its fiscal 1991 expenses.

\$3,816,000 from the dividend fund to the Department of Revenue to administer the dividend program.

\$12,217,300 from the dividend fund to the Department of Health & Social Services for Permanent Fund dividend hold-harmless costs.

\$736,600 from the dividend fund to the Department of Public Safety for restitution for crime victims.

\$763,400 from the dividend fund to the Department of Corrections for gate money to incarcerated felons.

The legislature passed five other bills which addressed the Permanent Fund dividend program:

**SB 102 (Chapter 1, SLA 1990):** This bill removed the \$10 Winter Olympics check-off from the Permanent Fund dividend application.

**HB 380 (Chapter 68, SLA 1990):** This bill allows the parent, guardian, or other authorized representative of a disabled individual to apply for prior year permanent fund dividends not received by the disabled individual because no application was submitted on behalf of the individual.

**HB 511 (Chapter 197, SLA 1990):** This bill relates to the \$1.5 million appropriation from the dividend fund made in 1989 to the Departments of Corrections and Public Safety. It provides that if the felons win their lawsuit challenging the constitutionality of the 1988 law which denied them Permanent Fund dividends, then \$1.5 million is appropriated from the General Fund to reimburse the dividend fund. If the felons lose their lawsuit, the \$1.5 million currently set aside in the dividend fund pending settlement of the lawsuit will be added to next year's dividends.

**HB 563 (Chapter 198, SLA 1990):** This bill:

1) amends the dividend statutes to require that the PFD check stubs disclose not only the amount by which each dividend has been reduced due to each